



MiCA

(Markets in Crypto-Assets Regulation)

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**ELVINGER
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This brochure contains:

*The Markets in Crypto-Assets regulation ("**MiCA**") (i.e. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937) together with:*

- Commission Delegated Regulation (EU) 2024/1503 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying the fees charged by the European Banking Authority to issuers of significant asset-referenced tokens and issuers of significant e-money tokens;*
- Commission Delegated Regulation (EU) 2024/1504 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying the procedural rules for the exercise of the power to impose fines or periodic penalty payments by the European Banking Authority on issuers of significant asset-referenced tokens and issuers of significant e-money tokens;*
- Commission Delegated Regulation (EU) 2024/1506 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant;*
- Commission Delegated Regulation (EU) 2024/1507 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying the criteria and factors to be taken into account by the European Securities Markets Authority, the European Banking Authority and competent authorities in relation to their intervention powers;*
- Commission Delegated Regulation (EU) 2025/292 of 26 September 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards establishing a template document for cooperation arrangements between competent authorities and supervisory authorities of third countries;*
- Commission Delegated Regulation (EU) 2025/293 of 30 September 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements, templates and procedures for the handling of complaints relating to asset referenced tokens;*
- Commission Delegated Regulation (EU) 2025/294 of 1 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements, templates and procedures for the handling of complaints by the crypto-asset service providers;*
- Commission Delegated Regulation (EU) 2025/296 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the procedure for the approval of a crypto-asset white paper;*
- Commission Delegated Regulation (EU) 2025/297 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical*

standards specifying the conditions for the establishment and functioning of consultative supervisory colleges;

- *Commission Delegated Regulation (EU) 2025/299 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council on markets in crypto-assets with regard to regulatory technical standards on continuity and regularity in the performance of crypto-asset services;*
- *Commission Delegated Regulation (EU) 2025/300 of 10 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards on information to be exchanged between competent authorities;*
- *Commission Delegated Regulation (EU) 2025/303 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included by certain financial entities in the notification of their intention to provide crypto-asset services;*
- *Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider;*
- *Commission Delegated Regulation (EU) 2025/414 of 18 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in a crypto-asset service provider;*
- *Commission Delegated Regulation (EU) 2025/415 of 13 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying adjustment of own funds requirement and minimum features of stress testing programmes of issuers of asset-referenced tokens or of e-money tokens;*
- *Commission Delegated Regulation (EU) 2025/416 of 29 November 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content and format of order book records for crypto-asset service providers operating a trading platform for crypto-assets;*
- *Commission Delegated Regulation (EU) 2025/417 of 28 November 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the manner in which crypto-asset service providers operating a trading platform for crypto-assets are to present transparency data;*
- *Commission Delegated Regulation (EU) 2025/418 of 16 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the minimum content of the governance arrangements on the remuneration policy of issuers of significant asset-referenced or e-money tokens;*
- *Commission Delegated Regulation (EU) 2025/419 of 16 December 2024 supplementing*

Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the procedure and timeframe for an issuer of asset-referenced tokens or of e-money tokens to adjust the amount of its own funds;

- *Commission Delegated Regulation (EU) 2025/421 of 16 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the data necessary for the classification of crypto-asset white papers and the practical arrangements to ensure that such data is machine-readable;*
- *Commission Delegated Regulation (EU) 2025/422 of 17 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content, methodologies and presentation of information in respect of sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts;*
- *Commission Delegated Regulation (EU) 2025/1140 of 27 February 2025 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying records to be kept of all crypto-asset services, activities, orders and transactions undertaken;*
- *Commission Delegated Regulation (EU) 2025/1141 of 27 February 2025 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council as regards regulatory technical standards specifying the requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens;*
- *Commission Delegated Regulation (EU) 2025/1142 of 27 February 2025 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements for policies and procedures on conflicts of interest for crypto-asset service providers and the details and methodology for the content of disclosures on conflicts of interest;*
- *Commission Delegated Regulation (EU) 2025/885 of 29 April 2025 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the arrangements, systems and procedures to prevent, detect and report market abuse, the templates to be used for reporting suspected market abuse, and the coordination procedures between the competent authorities for the detection and sanctioning of market abuse in cross-border market abuse situations*
- *Commission Implementing Regulation (EU) 2024/2494 of 24 September 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and EBA and ESMA;*
- *Commission Implementing Regulation (EU) 2024/2545 of 24 September 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities;*

- *Commission Implementing Regulation (EU) 2024/2861 of 12 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to the technical means for the appropriate public disclosure of inside information and for delaying the public disclosure of that information;*
- *Commission Implementing Regulation (EU) 2024/2902 of 20 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to reporting related to asset-referenced tokens and to e-money tokens denominated in a currency that is not an official currency of a Member State;*
- *Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to forms, formats and templates for the crypto-asset white papers;*
- *Commission Implementing Regulation (EU) 2025/304 of 31 October 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the notification by certain financial entities of their intention to provide crypto-asset services;*
- *Commission Implementing Regulation (EU) 2025/306 of 31 October 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider;*
- *Draft RTS on information for application for authorisation to offer to the public and to seek admission to trading of asset-referenced tokens*
- *Draft Implementing Technical Standards on standard forms, templates and procedures for the information to be included in the application, under Article 18(6) and (7) of Regulation (EU) 2023/1114;*

*(the "**Level 2 Measures**");*

- *EBA Draft Regulatory Technical Standards to further specify the liquidity requirements of the reserve of assets under Article 36(4) of Regulation (EU) 2023/1114;*
- *EBA Draft Regulatory Technical Standards to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) of Regulation (EU) 2023/1114;*
- *EBA Draft RTS to specify the minimum contents of the liquidity management policy and procedures under Article 45(7)(b) of Regulation (EU) 2023/1114;*
- *ESMA Final Report on the Draft Technical Standards specifying certain requirements in relation to the detection and prevention of market abuse under the Markets in Crypto Assets Regulation (MiCA);*

- *ESMA Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments;*
 - *ESMA Guidelines on the specification of Union standards for the maintenance of systems and security access protocols for offerors and persons seeking admission to trading of crypto-assets other than asset referenced tokens and e-money token;*
 - *ESMA Guidelines on situations in which a third-country firm is deemed to solicit clients established or situated in the EU and the supervision practices to detect and prevent circumvention of the reverse solicitation exemption under the Markets in Crypto Assets Regulation (MiCA);*
 - *ESMA Guidelines on certain aspects of the suitability requirements and format of the periodic statement for portfolio management activities under the Markets in Crypto Assets Regulation (MiCA);*
 - *ESMA Final Report on Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA);*
 - *ESMA Guidelines on the procedures and policies, including the rights of clients, in the context of transfer services for crypto-assets under the Markets in Crypto (MiCA) on investor protection;*
 - *ESMA Guidelines on supervisory practices for competent authorities to prevent and detect market abuse under the Markets in Crypto Assets Regulation (MiCA);*
 - *EBA Guidelines on templates to assist competent authorities in performing their supervisory duties regarding issuers' compliance under Titles III and IV of Regulation (EU) 2023/1114;*
 - *EBA Guidelines on the minimum content of the governance arrangements for issuers of asset-referenced tokens;*
 - *EBA Guidelines establishing the common reference parameters of the stress test scenarios for the liquidity stress tests referred in Article 45(4) Regulation (EU) 2023/1114;*
 - *EBA Guidelines on recovery plans under Articles 46 and 55 of Regulation (EU) 2023/1114;*
 - *EBA Guidelines on redemption plans under Articles 47 and 55 of Regulation (EU) 2023/1114;*
 - *Joint EBA and ESMA Guidelines on the assessment of the suitability of the members of the management body of issuers of asset-referenced token and of crypto-asset service providers;*
 - *Draft Joint Guidelines on the assessment of the suitability of the shareholders or members, whether direct or indirect, with qualifying holdings in issuers of ARTs or of CASPs;*
 - *ESA's Guidelines on templates for explanations and opinions, and the standardised test for the classification of crypto-assets, under Article 97(1) of Regulation (EU) 2023/1114;*
- (the "**Level 3 Measures**").

- *Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive*

(EU) 2015/849;

By using the electronic version, you will have a direct access to the relevant articles of MiCA, the Level 2 Measures and the Level 3 Measures.

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MiCA Regulation (Markets in Crypto-Assets Regulation)

Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937

(Text with EEA relevance)

Recitals

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

Whereas:

- (1) It is important to ensure that Union legislative acts on financial services are fit for the digital age, and contribute to a future-proof economy that works for people, including by enabling the use of innovative technologies. The Union has a policy interest in developing and promoting the uptake of transformative technologies in the financial sector, including the uptake of distributed ledger technology (DLT). It is expected that many applications of distributed ledger technology, including blockchain technology, that have not yet been fully studied will continue to result in new types of business activity and business models that, together with the crypto-asset sector itself, will lead to economic growth and new employment opportunities for Union citizens.
- (2) Crypto-assets are one of the main applications of distributed ledger technology. Crypto-assets are digital representations of value or of rights that have the potential to bring significant benefits to market participants, including retail holders of crypto-assets. Representations of value include external, non-intrinsic value attributed to a crypto-asset by the parties concerned or by market participants, meaning the value is subjective and based only on the interest of the purchaser of the crypto-asset. By streamlining capital-raising processes and enhancing competition, offers of crypto-assets could allow for an innovative and inclusive way of financing, including for small and medium-sized enterprises (SMEs). When used as a

¹ OJ C 152, 29.4.2021, p. 1.

² OJ C 155, 30.4.2021, p. 31.

³ Position of the European Parliament of 20 April 2023 (not yet published in the Official Journal) and decision of the Council of 16 May 2023.

means of payment, crypto-assets can present opportunities in terms of cheaper, faster and more efficient payments, in particular on a cross-border basis, by limiting the number of intermediaries.

- (3) Some crypto-assets, in particular those that qualify as financial instruments as defined in Directive 2014/65/EU of the European Parliament and of the Council⁴, fall within the scope of existing Union legislative acts on financial services. Therefore, a full set of Union rules already applies to issuers of such crypto-assets and to firms conducting activities related to such crypto-assets.
- (4) Other crypto-assets, however, fall outside of the scope of Union legislative acts on financial services. At present, there are no rules, other than those in respect of anti-money laundering, for the provision of services related to such unregulated crypto-assets, including for the operation of trading platforms for crypto-assets, the exchange of crypto-assets for funds or other crypto-assets, and providing custody and administration of crypto-assets on behalf of clients. The absence of such rules leaves holders of those crypto-assets exposed to risks, in particular in fields not covered by consumer protection rules. The absence of such rules can also result in substantial risks to market integrity, including in terms of market abuse as well as in terms of financial crime. To address those risks, some Member States have put in place specific rules for all, or a subset of, crypto-assets that fall outside the scope of Union legislative acts on financial services, and other Member States are considering whether to legislate in the field of crypto-assets.
- (5) The absence of an overall Union framework for markets in crypto-assets can lead to a lack of user confidence in those assets, which could significantly hinder the development of a market in those assets and lead to missed opportunities in terms of innovative digital services, alternative payment instruments or new funding sources for Union companies. In addition, companies using crypto-assets would have no legal certainty on how their crypto-assets would be treated in the various Member States, which would undermine their efforts to use crypto-assets for digital innovation. The lack of an overall Union framework for markets in crypto-assets could also lead to regulatory fragmentation, which would distort competition in the internal market, make it more difficult for crypto-asset service providers to scale up their activities on a cross-border basis and would give rise to regulatory arbitrage. Markets in crypto-assets are still modest in size and do not at present pose a threat to financial stability. It is, however, possible that types of crypto-assets that aim to stabilise their price in relation to a specific asset or a basket of assets could in the future be widely adopted by retail holders, and such a development could raise additional challenges in terms of financial stability, the smooth operation of payment systems, monetary policy transmission or monetary sovereignty.
- (6) A dedicated and harmonised framework for markets in crypto-assets is therefore necessary at Union level in order to provide specific rules for crypto-assets and related services and activities that are not yet covered by Union legislative acts on financial services. Such a framework should support innovation and fair competition, while ensuring a high level of protection of retail holders and the integrity of markets in crypto-assets. A clear framework should enable crypto-asset service providers to scale up their businesses on a cross-border basis and facilitate their access to banking services to enable them to run their activities smoothly. A Union framework for markets in crypto-assets should provide for the proportionate treatment of issuers of crypto-assets and crypto-asset service providers, thereby giving rise to equal opportunities in respect of market entry and the ongoing and future development of markets in crypto-assets. It should also promote financial stability and the smooth operation of payment systems, and address monetary policy risks that could arise from crypto-assets that aim to stabilise their price in relation to a specific asset or basket of assets. Proper regulation maintains the competitiveness of the Member States on international financial and technological markets and provides clients with significant benefits in terms of access to cheaper, faster and safer financial services and asset management. The Union

⁴ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

framework for markets in crypto-assets should not regulate the underlying technology. Union legislative acts should avoid imposing an unnecessary and disproportionate regulatory burden on the use of technology, since the Union and the Member States seek to maintain competitiveness on a global market.

- (7) The consensus mechanisms used for the validation of transactions in crypto-assets might have principal adverse impacts on the climate and other environment-related adverse impacts. Such consensus mechanisms should therefore deploy more environmentally-friendly solutions and ensure that any principal adverse impact that they might have on the climate, and any other environment-related adverse impact, are adequately identified and disclosed by issuers of crypto-assets and crypto-asset service providers. When determining whether adverse impacts are principal, account should be taken of the principle of proportionality and the size and volume of the crypto-asset issued. The European Supervisory Authority (European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁵, in cooperation with the European Supervisory Authority (European Banking Authority) (EBA) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁶, should therefore be mandated to develop draft regulatory technical standards to further specify the content, methodologies and presentation of information in relation to sustainability indicators with regard to adverse impacts on climate and other environment-related adverse impacts, and to outline key energy indicators. The draft regulatory technical standards should also ensure coherence of disclosures by issuers of crypto-assets and by crypto-asset service providers. When developing the draft regulatory technical standards, ESMA should take into account the various types of consensus mechanisms used for the validation of transactions in crypto-assets, their characteristics and the differences between them. ESMA should also take into account existing disclosure requirements, ensure complementarity and consistency, and avoid increasing the burden on companies.
- (8) Markets in crypto-assets are global and thus inherently cross-border. Therefore, the Union should continue to support international efforts to promote convergence in the treatment of crypto-assets and crypto-asset services through international organisations or bodies such as the Financial Stability Board, the Basel Committee on Banking Supervision and the Financial Action Task Force.
- (9) Union legislative acts on financial services should be guided by the principles of 'same activities, same risks, same rules' and of technology neutrality. Therefore, crypto-assets that fall under existing Union legislative acts on financial services should remain regulated under the existing regulatory framework, regardless of the technology used for their issuance or their transfer, rather than this Regulation. Accordingly, this Regulation expressly excludes from its scope crypto-assets that qualify as financial instruments as defined in Directive 2014/65/EU, those that qualify as deposits as defined in Directive 2014/49/EU of the European Parliament and of the Council⁷, including structured deposits as defined in Directive 2014/65/EU, those that qualify as funds as defined in Directive (EU) 2015/2366 of the European Parliament and of the Council⁸, except if they qualify as electronic money tokens ('e-money tokens'), those that qualify as securitisation positions as defined in Regulation (EU) 2017/2402 of the European

⁵ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

⁶ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁷ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

⁸ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

Parliament and of the Council⁹, and those that qualify as non-life or life insurance contracts, pension products or schemes and social security schemes. Having regard to the fact that electronic money and funds received in exchange for electronic money should not be treated as deposits in accordance with Directive 2009/110/EC of the European Parliament and of the Council¹⁰, e-money tokens cannot be treated as deposits that are excluded from the scope of this Regulation.

- (10) This Regulation should not apply to crypto-assets that are unique and not fungible with other crypto-assets, including digital art and collectibles. The value of such unique and non-fungible crypto-assets is attributable to each crypto-asset's unique characteristics and the utility it gives to the holder of the token. Nor should this Regulation apply to crypto-assets representing services or physical assets that are unique and non-fungible, such as product guarantees or real estate. While unique and non-fungible crypto-assets might be traded on the marketplace and be accumulated speculatively, they are not readily interchangeable and the relative value of one such crypto-asset in relation to another, each being unique, cannot be ascertained by means of comparison to an existing market or equivalent asset. Such features limit the extent to which those crypto-assets can have a financial use, thus limiting risks to holders and the financial system and justifying their exclusion from the scope of this Regulation.
- (11) The fractional parts of a unique and non-fungible crypto-asset should not be considered unique and non-fungible. The issuance of crypto-assets as non-fungible tokens in a large series or collection should be considered an indicator of their fungibility. The mere attribution of a unique identifier to a crypto-asset is not, in and of itself, sufficient to classify it as unique and non-fungible. The assets or rights represented should also be unique and non-fungible in order for the crypto-asset to be considered unique and non-fungible. The exclusion of crypto-assets that are unique and non-fungible from the scope of this Regulation is without prejudice to the qualification of such crypto-assets as financial instruments. This Regulation should also apply to crypto-assets that appear to be unique and non-fungible, but whose *de facto* features or whose features that are linked to their *de facto* uses, would make them either fungible or not unique. In that regard, when assessing and classifying crypto-assets, competent authorities should adopt a substance over form approach whereby the features of the crypto-asset in question determine the classification and not its designation by the issuer.
- (12) It is appropriate to exclude certain intragroup transactions and some public entities from the scope of this Regulation as they do not pose risks to investor protection, market integrity, financial stability, the smooth operation of payment systems, monetary policy transmission or monetary sovereignty. Public international organisations that are exempt include the International Monetary Fund and the Bank for International Settlements.
- (13) Digital assets issued by central banks acting in their monetary authority capacity, including central bank money in digital form, or crypto-assets issued by other public authorities, including central, regional and local administrations, should not be subject to the Union framework for markets in crypto-assets. Nor should related services provided by such central banks when acting in their monetary authority capacity or other public authorities be subject to that Union framework.
- (14) For the purposes of ensuring a clear delineation between, on the one hand, crypto-assets covered by this Regulation and, on the other hand, financial instruments, ESMA should be mandated to issue guidelines on the criteria and conditions for the qualification of crypto-assets as financial instruments. Those

⁹ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

¹⁰ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

guidelines should also allow for a better understanding of the cases where crypto-assets that are otherwise considered unique and not fungible with other crypto-assets might qualify as financial instruments. In order to promote a common approach towards the classification of crypto-assets, EBA, ESMA and the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council¹¹ (the 'European Supervisory Authorities' or 'ESAs') should promote discussions on such classification. Competent authorities should be able to request opinions from the ESAs on the classification of crypto-assets, including classifications proposed by offerors or persons seeking admission to trading. Offerors or persons seeking admission to trading are primarily responsible for the correct classification of crypto-assets, which might be challenged by the competent authorities, both before the date of publication of the offer and at any time thereafter. Where the classification of a crypto-asset appears to be inconsistent with this Regulation or other relevant Union legislative acts on financial services, the ESAs should make use of their powers under Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 in order to ensure a consistent and coherent approach to such classification.

- (15) Pursuant to Article 127(2), fourth indent, of the Treaty on the Functioning of the European Union (TFEU), one of the basic tasks to be carried out through the European System of Central Banks (ESCB) is to promote the smooth operation of payment systems. The European Central Bank (ECB) may, pursuant to Article 22 of Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank attached to the Treaties, make regulations to ensure efficient and sound clearing and payment systems within the Union and with other countries. To that end, the ECB has adopted regulations concerning requirements for systemically important payment systems. This Regulation is without prejudice to the responsibilities of the ECB and the national central banks in the ESCB to ensure efficient and sound clearing and payment systems within the Union and with third countries. Consequently, and in order to prevent the possible creation of parallel sets of rules, EBA, ESMA and the ECB should cooperate closely when preparing the relevant draft technical standards under this Regulation. Furthermore, it is crucial for the ECB and the national central banks to have access to information when fulfilling their tasks relating to the oversight of payment systems, including clearing of payments. In addition, this Regulation should be without prejudice to Council Regulation (EU) No 1024/2013¹² and should be interpreted in such a way that it is not in conflict with that Regulation.
- (16) Any legislative act adopted in the field of crypto-assets should be specific and future-proof, be able to keep pace with innovation and technological developments and be founded on an incentive-based approach. The terms 'crypto-assets' and 'distributed ledger technology' should therefore be defined as widely as possible to capture all types of crypto-assets that currently fall outside the scope of Union legislative acts on financial services. Any legislative act adopted in the field of crypto-assets should also contribute to the objective of combating money laundering and terrorist financing. For that reason, entities offering services falling within the scope of this Regulation should also comply with applicable anti-money laundering and counter-terrorist financing rules of the Union, which integrate international standards.
- (17) Digital assets that cannot be transferred to other holders do not fall within the definition of crypto-assets. Therefore, digital assets that are accepted only by the issuer or the offeror and that are technically impossible to transfer directly to other holders should be excluded from the scope of this Regulation. An

¹¹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

¹² Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

example of such digital assets includes loyalty schemes where the loyalty points can be exchanged for benefits only with the issuer or offeror of those points.

- (18) This Regulation classifies crypto-assets into three types, which should be distinguished from one another and subject to different requirements depending on the risks they entail. The classification is based on whether the crypto-assets seek to stabilise their value by reference to other assets. The first type consists of crypto-assets that aim to stabilise their value by referencing only one official currency. The function of such crypto-assets is very similar to the function of electronic money as defined in Directive 2009/110/EC. Like electronic money, such crypto-assets are electronic surrogates for coins and banknotes and are likely to be used for making payments. Those crypto-assets should be defined in this Regulation as 'e-money tokens'. The second type of crypto-assets concerns 'asset-referenced tokens', which aim to stabilise their value by referencing another value or right, or combination thereof, including one or several official currencies. That second type covers all other crypto-assets, other than e-money tokens, whose value is backed by assets, so as to avoid circumvention and to make this Regulation future-proof. Finally, the third type consists of crypto-assets other than asset-referenced tokens and e-money tokens, and covers a wide variety of crypto-assets, including utility tokens.
- (19) At present, despite their similarities, electronic money and crypto-assets referencing an official currency differ in some important aspects. Holders of electronic money as defined in Directive 2009/110/EC are always provided with a claim against the electronic money issuer and have a contractual right to redeem, at any moment and at par value, the monetary value of the electronic money held. By contrast, some crypto-assets referencing an official currency do not provide their holders with such a claim against the issuers of such crypto-assets and could fall outside the scope of Directive 2009/110/EC. Other crypto-assets referencing an official currency do not provide a claim at par value with the currency they are referencing or they limit the redemption period. The fact that holders of such crypto-assets do not have a claim against the issuers of such crypto-assets, or that such claim is not at par value with the currency those crypto-assets are referencing, could undermine the confidence of holders of those crypto-assets. Accordingly, to avoid circumvention of the rules laid down in Directive 2009/110/EC, any definition of e-money tokens should be as wide as possible to capture all types of crypto-assets referencing a single official currency. In addition, strict conditions on the issuance of e-money tokens should be laid down, including an obligation for e-money tokens to be issued either by a credit institution authorised under Directive 2013/36/EU of the European Parliament and of the Council¹³, or by an electronic money institution authorised under Directive 2009/110/EC. For the same reason, issuers of e-money tokens should ensure that holders of such tokens can exercise their right to redeem their tokens at any time and at par value against the currency referencing those tokens. Because e-money tokens are crypto-assets and can raise new challenges in terms of protection of retail holders and market integrity that are specific to crypto-assets, they should also be subject to the rules laid down in this Regulation to address those challenges.
- (20) Given the different risks and opportunities raised by crypto-assets, it is necessary to lay down rules for offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens and e-money tokens, as well as for issuers of asset-referenced tokens and e-money tokens. Issuers of crypto-assets are entities that have control over the creation of crypto-assets.
- (21) It is necessary to lay down specific rules for entities that provide services related to crypto-assets. A first category of such services consists of ensuring the operation of a trading platform for crypto-assets, exchanging crypto-assets for funds or other crypto-assets, providing custody and administration of crypto-assets on behalf of clients, and providing transfer services for crypto-assets on behalf of clients. A second

¹³ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

category of such services consists of the placing of crypto-assets, the reception or transmission of orders for crypto-assets on behalf of clients, the execution of orders for crypto-assets on behalf of clients, providing advice on crypto-assets and providing portfolio management of crypto-assets. Any person that provides crypto-asset services on a professional basis in accordance with this Regulation should be deemed to be a 'crypto-asset service provider'.

- (22) This Regulation should apply to natural and legal persons and certain other undertakings and to the crypto-asset services and activities performed, provided or controlled, directly or indirectly, by them, including when part of such activities or services is performed in a decentralised manner. 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 Regulation covers the rights and obligations of issuers of crypto-assets, offerors, persons seeking admission to trading of crypto-assets and crypto-asset service providers. Where crypto-assets have no identifiable issuer, they should not fall within the scope of Title II, III or IV of this Regulation. Crypto-asset service providers providing services in respect of such crypto-assets should, however, be covered by this Regulation.
- (23) To ensure that all offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens, which can potentially have a financial use, or all admissions of crypto-assets to trading on a trading platform for crypto-assets ('admission to trading'), in the Union, are properly monitored and supervised by competent authorities, all offerors or persons seeking admission to trading should be legal persons.
- (24) In order to ensure their protection, prospective retail holders of crypto-assets should be informed of the characteristics, functions and risks of the crypto-assets that they intend to purchase. When making an offer to the public of crypto-assets other than asset-referenced tokens or e-money tokens or when seeking admission to trading of such crypto-assets in the Union, offerors or persons seeking admission to trading should draw up, notify to their competent authority and publish an information document containing mandatory disclosures ('a crypto-asset white paper'). A crypto-asset white paper should contain general information on the issuer, offeror or person seeking admission to trading, on the project to be carried out with the capital raised, on the offer to the public of crypto-assets or on their admission to trading, on the rights and obligations attached to the crypto-assets, on the underlying technology used for such crypto-assets and on the related risks. However, the crypto-asset white paper should not contain a description of risks that are unforeseeable and very unlikely to materialise. The information contained in the crypto-asset white paper as well as in the relevant marketing communications, such as advertising messages and marketing material, and including through new channels such as social media platforms, should be fair, clear and not misleading. Advertising messages and marketing material should be consistent with the information provided in the crypto-asset white paper.
- (25) Crypto-asset white papers, including their summaries, and the operating rules of trading platforms for crypto-assets should be drawn up in at least one of the official languages of the home Member State and of any host Member State or, alternatively, in a language customary in the sphere of international finance. At the time of adoption of this Regulation, the English language is the language customary in the sphere of international finance but that could evolve in the future.
- (26) In order to ensure a proportionate approach, no requirements of this Regulation should apply to offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens that are offered for free or that are automatically created as a reward for the maintenance of a distributed ledger or the validation of transactions in the context of a consensus mechanism. In addition, no requirements should apply to offers of utility tokens providing access to an existing good or service, enabling the holder to collect the good or use the service, or when the holder of the crypto-assets has the right to use them only in exchange for goods and services in a limited network of merchants with contractual arrangements with the offeror. Such exemptions should not include crypto-assets representing stored goods that are not intended to be collected by the purchaser following the purchase. Neither should the limited network exemption apply

- to crypto-assets that are typically designed for a continuously growing network of service providers. The limited network exemption should be evaluated by the competent authority each time that an offer, or the aggregate value of more than one offer, exceeds a certain threshold, meaning that a new offer should not automatically benefit from an exemption of a previous offer. Those exemptions should cease to apply when the offeror, or another person acting on the offeror's behalf, communicates the offeror's intention of seeking admission to trading or the exempted crypto-assets are admitted to trading.
- (27) In order to ensure a proportionate approach, the requirements of this Regulation to draw up and publish a crypto-asset white paper should not apply to offers of crypto-assets other than asset-referenced tokens or e-money tokens that are made to fewer than 150 persons per Member State, or that are addressed solely to qualified investors where the crypto-assets can only be held by such qualified investors. SMEs and start-ups should not be subject to excessive and disproportionate administrative burden. Accordingly, offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens in the Union whose total consideration does not exceed EUR 1 000 000 over a period of 12 months should also be exempt from the obligation to draw up a crypto-asset white paper.
- (28) The mere admission to trading or the publication of bid and offer prices should not, in and of itself, be regarded as an offer to the public of crypto-assets. Such admission or publication should only constitute an offer to the public of crypto-assets where it includes a communication constituting an offer to the public under this Regulation.
- (29) Even though some offers of crypto-assets other than asset-referenced tokens or e-money tokens are exempt from various obligations of this Regulation, Union legislative acts that ensure consumer protection, such as Directive 2005/29/EC of the European Parliament and of the Council¹⁴ or Council Directive 93/13/EEC¹⁵, including any information obligations contained therein, remain applicable to offers to the public of crypto-assets where they concern business-to-consumer relationships.
- (30) Where an offer to the public concerns utility tokens for goods that do not yet exist or services that are not yet in operation, the duration of the offer to the public as described in the crypto-asset white paper should not exceed 12 months. That limitation on the duration of the offer to the public is unrelated to the moment when the goods or services come into existence or become operational and can be used by the holder of a utility token after the expiry of the offer to the public.
- (31) In order to enable supervision, offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens should, before making any offer to the public of crypto-assets in the Union or before those crypto-assets are admitted to trading, notify their crypto-asset white paper and, upon request of the competent authority, their marketing communications, to the competent authority of the Member State where they have their registered office or, where they have no registered office in the Union, of the Member State where they have a branch. Offerors that are established in a third country should notify their crypto-asset white paper and, upon request of the competent authority, their marketing communications, to the competent authority of the Member State where they intend to offer the crypto-assets.
- (32) The operator of a trading platform should be responsible for complying with the requirements of Title II of this Regulation where crypto-assets are admitted to trading on its own initiative and the crypto-asset white paper has not already been published in the cases required by this Regulation. The operator of a

¹⁴ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.6.2005, p. 22).

¹⁵ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

- trading platform should also be responsible for complying with those requirements where it has concluded a written agreement to that end with the person seeking admission to trading. The person seeking admission to trading should remain responsible when it provides misleading information to the operator of the trading platform. The person seeking admission to trading should also remain responsible for matters not delegated to the operator of the trading platform.
- (33) In order to avoid undue administrative burden, competent authorities should not be required to approve a crypto-asset white paper before its publication. Competent authorities should, however, have the power to request amendments to the crypto-asset white paper and to any marketing communications and, where necessary, to request the inclusion of additional information in the crypto-asset white paper.
 - (34) Competent authorities should be able to suspend or prohibit an offer to the public of crypto-assets other than asset-referenced tokens or e-money tokens, or the admission of such crypto-assets to trading, where such an offer to the public or admission to trading does not comply with the applicable requirements of this Regulation, including where the crypto-asset white paper or the marketing communications are not fair, not clear or are misleading. Competent authorities should also have the power to publish a warning that the offeror or person seeking admission to trading has failed to meet those requirements, either on its website or through a press release.
 - (35) Crypto-asset white papers that have been duly notified to a competent authority and marketing communications should be published. After such publication, offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens should be allowed to offer those crypto-assets throughout the Union and to seek admission to trading of such crypto-assets in the Union.
 - (36) Offerors of crypto-assets other than asset-referenced tokens or e-money tokens should have effective arrangements in place to monitor and safeguard the funds or other crypto-assets raised during their offer to the public. Those arrangements should also ensure that any funds or other crypto-assets collected from holders or prospective holders are duly returned as soon as possible where an offer to the public is cancelled for any reason. The offeror should ensure that the funds or other crypto-assets collected during the offer to the public are safeguarded by a third party.
 - (37) In order to further ensure protection of retail holders of crypto-assets, retail holders that acquire crypto-assets other than asset-referenced tokens or e-money tokens directly from the offeror, or from a crypto-asset service provider placing the crypto-assets on behalf of the offeror, should be provided with a right of withdrawal during a period of 14 days after their acquisition. In order to ensure the smooth completion of a time-limited offer to the public of crypto-assets, the right of withdrawal should not be exercised by retail holders after the end of the subscription period. Furthermore, the right of withdrawal should not apply where crypto-assets other than asset-referenced tokens or e-money tokens are admitted to trading prior to the purchase by the retail holder because, in such a case, the price of such crypto-assets depends on the fluctuations of the markets in crypto-assets. Where the retail holder has a right of withdrawal under this Regulation, the right of withdrawal under Directive 2002/65/EC of the European Parliament and of the Council¹⁶ should not apply.
 - (38) Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens should act honestly, fairly and professionally, should communicate with holders and prospective holders of crypto-assets in a manner that is fair, clear and not misleading, should identify, prevent, manage and disclose conflicts of interest, and should have effective administrative arrangements

¹⁶ Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9.10.2002, p. 16).

- to ensure that their systems and security protocols meet Union standards. In order to assist competent authorities in their supervisory tasks, ESMA, in close cooperation with EBA, should be mandated to issue guidelines on those systems and security protocols in order to further specify those Union standards.
- (39) To further protect holders of crypto-assets, civil liability rules should apply to offerors and persons seeking admission to trading and to the members of their management body for the information provided to the public in the crypto-asset white paper.
 - (40) Asset-referenced tokens could be widely adopted by holders to transfer value or as a means of exchange and thus pose increased risks in terms of protection of holders of crypto-assets, in particular retail holders, and in terms of market integrity, as compared to other crypto-assets. Issuers of asset-referenced tokens should therefore be subject to more stringent requirements than issuers of other crypto-assets.
 - (41) Where a crypto-asset falls within the definition of an asset-referenced token or e-money token, Title III or IV of this Regulation should apply, irrespective of how the issuer intends to design the crypto-asset, including the mechanism for maintaining a stable value of the crypto-asset. The same applies to so-called algorithmic 'stablecoins' that aim to maintain a stable value in relation to an official currency, or in relation to one or several assets, via protocols, that provide for the increase or decrease in the supply of such crypto-assets in response to changes in demand. Offerors or persons seeking admission to trading of algorithmic crypto-assets that do not aim to stabilise the value of the crypto-assets by referencing one or several assets should in any event comply with Title II of this Regulation.
 - (42) To ensure the proper supervision and monitoring of offers to the public of asset-referenced tokens, issuers of asset-referenced tokens should have a registered office in the Union.
 - (43) Offers to the public of asset-referenced tokens in the Union or seeking admission to trading of such crypto-assets should be permitted only where the competent authority has authorised the issuer of such crypto-assets to do so and has approved the relevant crypto-asset white paper. The authorisation requirement should however not apply where the asset-referenced tokens are addressed solely to qualified investors or where the offer to the public of the asset-referenced tokens is below EUR 5 000 000. In those cases, the issuer of the asset-referenced tokens should still be required to draw up a crypto-asset white paper to inform buyers about the characteristics and risks of the asset-referenced tokens and should also be required to notify the crypto-asset white paper to the competent authority before its publication.
 - (44) Credit institutions authorised under Directive 2013/36/EU should not need another authorisation under this Regulation in order to offer or seek the admission to trading of asset-referenced tokens. National procedures established under that Directive should apply but should be complemented by a requirement to notify the competent authority of the home Member State designated under this Regulation of the elements that enable that authority to verify the issuer's ability to offer or seek the admission to trading of asset-referenced tokens. Credit institutions that offer or seek the admission to trading of asset-referenced tokens should be subject to all requirements that apply to issuers of asset-referenced tokens with the exception of authorisation requirements, own funds requirements and the approval procedure with respect to qualifying shareholders, as those matters are covered by Directive 2013/36/EU and by Regulation (EU) No 575/2013 of the European Parliament and of the Council¹⁷. A crypto-asset white paper drawn up by such credit institution should be approved by the competent authority of the home Member State before publication. Credit institutions authorised under the provisions of national law transposing Directive 2013/36/EU and which offer or seek the admission to trading of asset-referenced tokens should be subject to the administrative powers set out under that Directive and also those under this Regulation, including a restriction or limitation of a credit institution's business and a suspension or prohibition of an

¹⁷ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

offer to the public of asset-referenced tokens. Where the obligations applying to such credit institutions under this Regulation overlap with those of Directive 2013/36/EU, the credit institutions should comply with the more specific or stricter requirements, thereby ensuring compliance with both sets of rules. The notification procedure for credit institutions intending to offer or seek the admission to trading of asset-referenced tokens under this Regulation should be without prejudice to the provisions of national law transposing Directive 2013/36/EU that set out procedures for the authorisation of credit institutions to provide the services listed in Annex I to that Directive.

- (45) A competent authority should refuse authorisation on objective and demonstrable grounds, including where the business model of the applicant issuer of asset-referenced tokens might pose a serious threat to market integrity, financial stability or the smooth operation of payment systems. The competent authority should consult EBA, ESMA, the ECB and, where the issuer is established in a Member State whose official currency is not the euro or where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, the central bank of that Member State before granting or refusing an authorisation. Non-binding opinions of EBA and ESMA should address the classification of the crypto-asset, while the ECB and, where applicable, the central bank of the Member State concerned should provide the competent authority with an opinion on the risks to financial stability, the smooth operation of payment systems, monetary policy transmission or monetary sovereignty. The competent authorities should refuse authorisation in cases where the ECB or the central bank of a Member State gives a negative opinion on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission, or monetary sovereignty. Where authorisation is granted to an applicant issuer of asset-referenced tokens, the crypto-asset white paper drawn up by that issuer should also be deemed approved. The authorisation by the competent authority should be valid throughout the Union and should allow the issuer of asset-referenced tokens to offer those crypto-assets on the internal market and to seek an admission to trading. In the same way, the crypto-asset white paper should also be valid for the entire Union, without any possibility for Member States to impose additional requirements.
- (46) In several cases where the ECB is consulted under this Regulation, its opinion should be binding insofar as it obliges a competent authority to refuse, withdraw or limit an authorisation of the issuer of asset-referenced tokens or to impose specific measures on the issuer of asset-referenced tokens. Article 263, first paragraph, TFEU provides that the Court of Justice of the European Union (the 'Court of Justice') should review the legality of acts of the ECB other than recommendations or opinions. It should be recalled, however, that it is for the Court of Justice to interpret that provision in light of the substance and effects of an opinion of the ECB.
- (47) To ensure protection of retail holders, issuers of asset-referenced tokens should always provide holders of such tokens with information that is complete, fair, clear and not misleading. Crypto-asset white papers for asset-referenced tokens should include information on the stabilisation mechanism, on the investment policy of the reserve assets, on the custody arrangements for the reserve assets and on the rights provided to holders.
- (48) In addition to the information provided in the crypto-asset white paper, issuers of asset-referenced tokens should also provide holders of such tokens with information on an ongoing basis. In particular, they should disclose on their website the amount of asset-referenced tokens in circulation and the value and composition of the reserve assets. Issuers of asset-referenced tokens should also disclose any event that has or is likely to have a significant impact on the value of the asset-referenced tokens or on the reserve assets, irrespective of whether such crypto-assets are admitted to trading.
- (49) To ensure protection of retail holders, issuers of asset-referenced tokens should always act honestly, fairly and professionally and in the best interests of the holders of asset-referenced tokens. Issuers of asset-referenced tokens should also put in place a clear procedure for handling complaints received from holders of asset-referenced tokens.

- (50) Issuers of asset-referenced tokens should put in place a policy to identify, prevent, manage and disclose conflicts of interest that can arise from their relationships with their shareholders or members, or with any shareholder or member, whether direct or indirect, that has a qualifying holding in the issuers, or with the members of their management body, their employees, holders of asset-referenced tokens or third-party service providers.

- (51) Issuers of asset-referenced tokens should have robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility and effective processes to identify, manage, monitor and report the risks to which they are or to which they might be exposed. The members of the management body of such issuers should be fit and proper and should, in particular, not have been convicted of any offence in the field of money laundering or terrorist financing or of any other offence that would affect their good repute. The shareholders or members, whether direct or indirect, natural or legal persons, that have qualifying holdings in such issuers, should be of sufficiently good repute and should, in particular, not have been convicted of any offence in the field of money laundering or terrorist financing or of any other offence that would affect their good repute. Issuers of asset-referenced tokens should also employ resources proportionate to the scale of their activities and should always ensure continuity and regularity in the performance of their activities. For that purpose, issuers of asset-referenced tokens should establish a business continuity policy that aims to ensure, in the case of an interruption to their systems and procedures, the performance of their core activities related to the asset-referenced tokens. Issuers of asset-referenced tokens should also have strong internal control mechanisms and effective procedures for risk management, as well as a system that guarantees the integrity and confidentiality of information received. Those obligations aim to ensure the protection of holders of asset-referenced tokens, in particular retail holders, while not creating unnecessary barriers.

- (52) Issuers of asset-referenced tokens are usually at the centre of a network of entities that ensure the issuance of such crypto-assets, their transfer and their distribution to holders. Issuers of asset-referenced tokens should therefore be required to establish and maintain appropriate contractual arrangements with third-party entities for ensuring the stabilisation mechanism and the investment of the reserve assets backing the value of the tokens, the custody of such reserve assets and, where applicable, the distribution of the asset-referenced tokens to the public.

- (53) To address the risks to the financial stability of the wider financial system, issuers of asset-referenced tokens should be subject to own funds requirements. Those requirements should be proportionate to the issuance size of the asset-referenced tokens and therefore calculated as a percentage of the reserve of assets that back the value of the asset-referenced tokens. Competent authorities should however be able to increase the amount of own funds required based on, inter alia, the evaluation of the risk-management process and internal control mechanisms of the issuer, the quality and volatility of the reserve assets backing the asset-referenced tokens, or the aggregate value and number of transactions settled in asset-referenced tokens.

- (54) In order to cover their liability against holders of asset-referenced tokens, issuers of asset-referenced tokens should constitute and maintain a reserve of assets matching the risks reflected in such liability. The reserve of assets should be used for the benefit of the holders of the asset-referenced tokens when the issuer is not able to fulfil its obligations towards the holders, such as in insolvency. The reserve of assets should be composed and managed in such a way that market and currency risks are covered. Issuers of asset-referenced tokens should ensure the prudent management of the reserve of assets and should, in particular, ensure that the value of the reserve amounts at least to the corresponding value of tokens in circulation and that changes in the reserve are adequately managed to avoid adverse impacts on the markets of the reserve assets. Issuers of asset-referenced tokens should therefore have clear and detailed policies that describe, inter alia, the composition of the reserve of assets, the allocation of assets included therein, a comprehensive assessment of the risks raised by the reserve assets, the procedure for the issuance and redemption of the asset-referenced tokens, the procedure to increase and decrease the

reserve assets and, where the reserve assets are invested, the investment policy that is followed by the issuers. Issuers of asset-referenced tokens that are marketed both in the Union and in third countries should ensure that their reserve of assets is available to cover the issuers' liability towards Union holders. The requirement to hold the reserve of assets with firms subject to Union law should therefore apply in proportion to the share of asset-referenced tokens that is expected to be marketed in the Union.

- (55) To prevent the risk of loss for asset-referenced tokens and to preserve the value of those assets, issuers of asset-referenced tokens should have an adequate custody policy for their reserve assets. That policy should ensure that the reserve assets are fully segregated from the issuer's own assets at all times, that the reserve assets are not encumbered or pledged as collateral, and that the issuer of asset-referenced tokens has prompt access to those reserve assets. The reserve assets should, depending on their nature, be held in custody by a crypto-asset service provider, by a credit institution authorised under Directive 2013/36/EU or by an investment firm authorised under Directive 2014/65/EU. That should not exclude the possibility of delegating the holding of the physical assets to another entity. Crypto-asset service providers, credit institutions or investment firms that act as custodians of reserve assets should be responsible for the loss of such reserve assets vis-à-vis the issuer or the holders of the asset-referenced tokens, unless they prove that such loss has arisen as a result of an external event beyond their reasonable control. Concentrations of the custodians of reserve assets should be avoided. However, in certain situations, that might not be possible due to a lack of suitable alternatives. In such cases, a temporary concentration should be deemed acceptable.
- (56) To protect holders of asset-referenced tokens against a decrease in value of the assets backing the value of the tokens, issuers of asset-referenced tokens should only invest the reserve assets in secure, low-risk assets with minimal market, concentration and credit risk. As the asset-referenced tokens could be used as a means of exchange, all profits or losses resulting from the investment of the reserve assets should be borne by the issuer of the asset-referenced tokens.
- (57) Holders of asset-referenced tokens should have a permanent right of redemption so that the issuer is required to redeem the asset-referenced tokens at any time, upon request by the holders of the asset-referenced tokens. The issuer of asset-referenced tokens should redeem either by paying an amount in funds, other than electronic money, equivalent to the market value of the assets referenced by the asset-referenced tokens, or by delivering the assets referenced by the tokens. The issuer of asset-referenced tokens should always provide the holder with the option of redeeming the asset-referenced tokens in funds other than electronic money denominated in the same official currency that the issuer accepted when selling the tokens. The issuer should provide sufficiently detailed and easily understandable information on the different forms of redemption available.
- (58) To reduce the risk that asset-referenced tokens are used as a store of value, issuers of asset-referenced tokens and crypto-asset service providers, when providing crypto-asset services related to asset-referenced tokens, should not grant interest to holders of asset-referenced tokens related to the length of time during which such holders are holding those asset-referenced tokens.
- (59) Asset-referenced tokens and e-money tokens should be deemed significant when they meet, or are likely to meet, certain criteria, including a large customer base, a high market capitalisation, or a large number of transactions. As such, they could be used by a large number of holders and their use could raise specific challenges in terms of financial stability, monetary policy transmission or monetary sovereignty. Those significant asset-referenced tokens and e-money tokens should, therefore, be subject to more stringent requirements than asset-referenced tokens or e-money tokens that are not deemed significant. In particular, issuers of significant asset-referenced tokens should be subject to higher capital requirements, to interoperability requirements and they should establish a liquidity management policy. The appropriateness of the thresholds to classify an asset-referenced token or e-money token as significant

should be reviewed by the Commission as part of its review of the application of this Regulation. That review should, where appropriate, be accompanied by a legislative proposal.

- (60) A comprehensive monitoring of the entire ecosystem of issuers of asset-referenced tokens is important in order to determine the true size and impact of such tokens. To capture all transactions that are conducted in relation to any given asset-referenced token, the monitoring of such tokens therefore includes the monitoring of all transactions that are settled, whether they are settled on the distributed ledger ('on-chain') or outside the distributed ledger ('off-chain'), and including transactions between clients of the same crypto-asset service provider.
- (61) It is particularly important to estimate transactions settled with asset-referenced tokens associated to uses as a means of exchange within a single currency area, namely, those associated to payments of debts including in the context of transactions with merchants. Those transactions should not include transactions associated with investment functions and services, such as a means of exchange for funds or other crypto-assets, unless there is evidence that the asset-referenced token is used for settlement of transactions in other crypto-assets. A use for settlement of transactions in other crypto-assets would be present in cases where a transaction involving two legs of crypto-assets, which are different from the asset-referenced tokens, is settled in the asset-referenced tokens. Moreover, where asset-referenced tokens are used widely as a means of exchange within a single currency area, issuers should be required to reduce the level of activity. An asset-referenced token should be considered to be used widely as a means of exchange when the average number and average aggregate value of transactions per day associated to uses as a means of exchange within a single currency area is higher than 1 million transactions and EUR 200 000 000 respectively.
- (62) Where asset-referenced tokens pose a serious threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty, central banks should be able to request the competent authority to withdraw the authorisation of the issuer of those asset-referenced tokens. Where asset-referenced tokens pose a threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty, central banks should be able to request the competent authority to limit the amount of those asset-referenced tokens to be issued, or to impose a minimum denomination amount.
- (63) This Regulation is without prejudice to national law regulating the use of domestic and foreign currencies in operations between residents, adopted by non-euro area Member States in exercising their prerogative of monetary sovereignty.
- (64) Issuers of asset-referenced tokens should prepare a recovery plan providing for measures to be taken by the issuer to restore compliance with the requirements applicable to the reserve of assets, including in cases where the fulfilment of requests for redemption creates temporary unbalances in the reserve of assets. The competent authority should have the power to temporarily suspend the redemption of asset-referenced tokens in order to protect the interests of the holders of the asset-referenced tokens and financial stability.
- (65) Issuers of asset-referenced tokens should have a plan for the orderly redemption of the tokens to ensure that the rights of the holders of the asset-referenced tokens are protected where the issuers are not able to comply with their obligations, including in the event of discontinuation of issuing of the asset-referenced tokens. Where the issuer of asset-referenced tokens is a credit institution or an entity falling

within the scope of Directive 2014/59/EU of the European Parliament and of the Council¹⁸, the competent authority should consult the responsible resolution authority. That resolution authority should be permitted to examine the redemption plan with a view to identifying any elements in it that might adversely affect the resolvability of the issuer, the resolution strategy of the issuer, or any actions foreseen in the resolution plan of the issuer, and make recommendations to the competent authority with regard to those matters. In doing so, the resolution authority should also be permitted to consider whether any changes are required to the resolution plan or the resolution strategy, in accordance with the provisions of Directive 2014/59/EU and Regulation (EU) No 806/2014 of the European Parliament and of the Council¹⁹, as applicable. Such examination by the resolution authority should not affect the powers of the prudential supervisory authority or of the resolution authority, as applicable, to take crisis prevention measures or crisis management measures.

- (66) Issuers of e-money tokens should be authorised either as a credit institution under Directive 2013/36/EU or as an electronic money institution under Directive 2009/110/EC. E-money tokens should be deemed to be 'electronic money' as that term is defined in Directive 2009/110/EC and their issuers should, unless specified otherwise in this Regulation, comply with the relevant requirements set out in Directive 2009/110/EC for the taking up, pursuit and prudential supervision of the business of electronic money institutions and the requirements on issuance and redeemability of e-money tokens. Issuers of e-money tokens should draw up a crypto-asset white paper and notify it to their competent authority. Exemptions regarding limited networks, regarding certain transactions by providers of electronic communications networks and regarding electronic money institutions issuing only a limited maximum amount of electronic money, based on the optional exemptions specified in Directive 2009/110/EC, should also apply to e-money tokens. However, issuers of e-money tokens should still be required to draw up a crypto-asset white paper in order to inform buyers about the characteristics and risks of the e-money tokens and should also be required to notify the crypto-asset white paper to the competent authority before its publication.
- (67) Holders of e-money tokens should be provided with a claim against the issuer of the e-money tokens. Holders of e-money tokens should always be granted a right of redemption at par value for funds denominated in the official currency that the e-money token is referencing. The provisions of Directive 2009/110/EC on the possibility of charging a fee in relation to redemption are not relevant in the context of e-money tokens.
- (68) To reduce the risk that e-money tokens are used as store of value, issuers of e-money tokens and crypto-asset service providers when they provide crypto-asset services related to e-money tokens, should not grant interest to holders of e-money tokens, including interest not related to the length of time that such holders hold those e-money tokens.
- (69) The crypto-asset white paper drawn up by an issuer of e-money tokens should contain all information concerning that issuer and the offer of e-money tokens or their admission to trading that is necessary to enable prospective buyers to make an informed purchase decision and understand the risks relating to the offer of e-money tokens. The crypto-asset white paper should also expressly refer to the right of

¹⁸ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

¹⁹ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

holders of e-money tokens to redeem their e-money tokens for funds denominated in the official currency that the e-money tokens reference at par value and at any time.

- (70) Where an issuer of e-money tokens invests the funds received in exchange for e-money tokens, such funds should be invested in assets denominated in the same official currency as the one that the e-money token is referencing in order to avoid cross-currency risks.
- (71) Significant e-money tokens could pose greater risks to financial stability than e-money tokens that are not significant and traditional electronic money. Issuers of significant e-money tokens that are electronic money institutions should therefore be subject to additional requirements. Such issuers of significant e-money tokens should in particular be subject to higher capital requirements than issuers of other e-money tokens, be subject to interoperability requirements and establish a liquidity management policy. They should also comply with some of the same requirements that apply to issuers of asset-referenced tokens with regard to reserve of assets, such as those on custody and investment of the reserve of assets. Those requirements for issuers of significant e-money tokens should apply instead of Articles 5 and 7 of Directive 2009/110/EC. As those provisions of Directive 2009/110/EC do not apply to credit institutions when issuing e-money, neither should the additional requirements for significant e-money tokens under this Regulation.
- (72) Issuers of e-money tokens should have in place recovery and redemption plans to ensure that the rights of the holders of the e-money tokens are protected when issuers are not able to comply with their obligations.
- (73) In most Member States, the provision of crypto-asset services is not yet regulated despite the potential risks that they pose to investor protection, market integrity and financial stability. To address such risks, this Regulation provides operational, organisational and prudential requirements at Union level applicable to crypto-asset service providers.
- (74) In order to enable effective supervision and to eliminate the possibility of evading or circumventing supervision, crypto-asset services should only be provided by legal persons that have a registered office in a Member State in which they carry out substantive business activities, including the provision of crypto-asset services. Undertakings that are not legal persons, such as commercial partnerships, should under certain conditions also be permitted to provide crypto-asset services. It is essential that providers of crypto-asset services maintain effective management of their activities in the Union in order to avoid undermining effective prudential supervision and to ensure the enforcement of requirements under this Regulation intended to ensure investor protection, market integrity and financial stability. Regular close direct contact between supervisors and the responsible management of crypto-asset service providers should be an essential element of such supervision. Crypto-asset service providers should therefore have their place of effective management in the Union, and at least one of the directors should be resident in the Union. The place of effective management means the place where the key management and commercial decisions that are necessary for the conduct of the business are taken.
- (75) This Regulation should not affect the possibility for persons established in the Union to receive crypto-asset services by a third-country firm on their own initiative. Where a third-country firm provides crypto-asset services on the own initiative of a person established in the Union, the crypto-asset services should not be deemed to be provided in the Union. Where a third-country firm solicits clients or prospective clients in the Union or promotes or advertises crypto-asset services or activities in the Union, its services should not be deemed to be crypto-asset services provided on the own initiative of the client. In such a case, the third-country firm should be authorised as a crypto-asset service provider.
- (76) Given the relatively small scale to date of crypto-asset service providers, the power to authorise and supervise such service providers should be conferred upon national competent authorities. Authorisation

as a crypto-asset service provider should be granted, refused or withdrawn by the competent authority of the Member State where the entity has its registered office. Where an authorisation is granted, it should indicate the crypto-asset services for which the crypto-asset service provider is authorised and should be valid for the entire Union.

- (77) In order to ensure the continued protection of the financial system of the Union against the risks of money laundering and terrorist financing, it is necessary to ensure that crypto-asset service providers carry out increased checks on financial operations involving customers and financial institutions from third countries listed as high-risk third countries because they are jurisdictions which have strategic deficiencies in their national anti-money laundering and counter-terrorist financing regimes that pose significant threats to the financial system of the Union as referred to in Directive (EU) 2015/849 of the European Parliament and of the Council²⁰.
- (78) Certain firms subject to Union legislative acts on financial services should be allowed to provide all or some crypto-asset services without being required to obtain an authorisation as a crypto-asset service provider under this Regulation if they notify their competent authorities with certain information before providing those services for the first time. In such cases, those firms should be deemed to be crypto-asset service providers and the relevant administrative powers provided in this Regulation, including the power to suspend or prohibit certain crypto-asset services, should apply with respect to them. Those firms should be subject to all requirements applicable to crypto-asset service providers under this Regulation with the exception of authorisation requirements, own funds requirements and the approval procedure regarding shareholders and members that have qualifying holdings, as those matters are covered by the respective Union legislative acts under which they were authorised. The notification procedure for credit institutions intending to provide crypto-asset services under this Regulation should be without prejudice to the provisions of national law transposing Directive 2013/36/EU that set out procedures for the authorisation of credit institutions to provide the services listed in Annex I to that Directive.
- (79) In order to ensure consumer protection, market integrity and financial stability, crypto-asset service providers should always act honestly, fairly and professionally and in the best interests of their clients. Crypto-asset services should be deemed 'financial services' as defined in Directive 2002/65/EC in cases where they meet the criteria of that Directive. Where marketed at distance, the contracts between crypto-asset service providers and consumers should be subject to Directive 2002/65/EC as well, unless expressly stated otherwise in this Regulation. Crypto-asset service providers should provide their clients with information that is complete, fair, clear and not misleading and warn them about the risks associated with crypto-assets. Crypto-asset service providers should make their pricing policies public, should establish complaints-handling procedures and should have a robust policy for the identification, prevention, management and disclosure of conflicts of interest.
- (80) To ensure consumer protection, crypto-asset service providers authorised under this Regulation should comply with certain prudential requirements. Those prudential requirements should be set as a fixed amount or in proportion to the fixed overheads of crypto-asset service providers of the preceding year, depending on the types of services they provide.
- (81) Crypto-asset service providers should be subject to strong organisational requirements. The members of the management body of crypto-asset service providers should be fit and proper and should, in particular, not have been convicted of any offence in the field of money laundering or terrorist financing or of any other offence that would affect their good reputation. The shareholders or members, whether direct or

²⁰ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

indirect, natural or legal persons, that have qualifying holdings in crypto-asset service providers should be of sufficiently good repute and should, in particular, not have been convicted of any offence in the field of money laundering or terrorist financing or of any other offence that would affect their good repute. In addition, where the influence exercised by shareholders and members that have qualifying holdings in crypto-asset service providers is likely to be prejudicial to the sound and prudent management of the crypto-asset service provider taking into account, amongst others, their previous activities, the risk of them engaging in illicit activities, or the influence or control by a government of a third country, competent authorities should have the power to address those risks. Crypto-asset service providers should employ management and staff with adequate knowledge, skills and expertise and should take all reasonable steps to perform their functions, including through the preparation of a business continuity plan. They should have sound internal control and risk assessment mechanisms as well as adequate systems and procedures to ensure the integrity and confidentiality of the information received. Crypto-asset service providers should have appropriate arrangements to keep records of all transactions, orders and services related to the crypto-asset services that they provide. They should also have systems in place to detect potential market abuse committed by clients.

- (82) In order to ensure protection of their clients, crypto-asset service providers should have adequate arrangements to safeguard the clients' ownership rights with respect to the crypto-assets they hold. Where their business model requires them to hold funds as defined in Directive (EU) 2015/2366 in the form of banknotes, coins, scriptural money or electronic money belonging to their clients, crypto-asset service providers should place such funds with a credit institution or a central bank, where an account with the central bank is available. Crypto-asset service providers should be authorised to make payment transactions in connection with the crypto-asset services they offer only where they are authorised as payment institutions in accordance with that Directive.

- (83) Depending on the services they provide and due to the specific risks raised by each type of services, crypto-asset service providers should be subject to requirements specific to those services. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients should conclude an agreement with their clients with certain mandatory provisions and should establish and implement a custody policy, which should be made available to clients upon their request in an electronic format. Such agreement should specify, inter alia, the nature of the service provided, which could include the holding of crypto-assets belonging to clients or the means of access to such crypto-assets, in which case the client might keep control of the crypto-assets in custody. Alternatively, the crypto-assets or the means of access to them could be transferred to the full control of the crypto-asset service provider. Crypto-asset service providers that hold crypto-assets belonging to clients, or the means of access to such crypto-assets, should ensure that those crypto-assets are not used for their own account. The crypto-asset service providers should ensure that all crypto-assets held are always unencumbered. Those crypto-asset service providers should also be held liable for any losses resulting from an incident related to information and communication technology ('ICT'), including an incident resulting from a cyber-attack, theft or any malfunctions. Hardware or software providers of non-custodial wallets should not fall within the scope of this Regulation.

- (84) To ensure the orderly functioning of markets in crypto-assets, crypto-asset service providers operating a trading platform for crypto-assets should have detailed operating rules, should ensure that their systems and procedures are sufficiently resilient, should be subject to pre-trade and post-trade transparency requirements adapted to the markets in crypto-assets, and should set transparent and non-discriminatory rules, based on objective criteria, governing access to their platforms. Crypto-asset service providers operating a trading platform for crypto-assets should also have a transparent fee structure for the services provided to avoid the placing of orders that could contribute to market abuse or disorderly trading conditions. Crypto-asset service providers operating a trading platform for crypto-assets should be able to settle transactions executed on trading platforms on-chain and off-chain, and should ensure a timely

settlement. The settlement of transactions should be initiated within 24 hours of a transaction being executed on the trading platform. In the case of an off-chain settlement, the settlement should be initiated on the same business day whereas in the case of an on-chain settlement, the settlement might take longer as it is not controlled by the crypto-asset service provider operating the trading platform.

- (85) To ensure consumer protection, crypto-asset service providers that exchange crypto-assets for funds or other crypto-assets by using their own capital should draw up a non-discriminatory commercial policy. They should publish either firm quotes or the methodology they are using for determining the price of the crypto-assets they wish to exchange, and they should publish any limits they wish to establish on the amount to be exchanged. They should also be subject to post-trade transparency requirements.
- (86) Crypto-asset service providers that execute orders for crypto-assets on behalf of clients should draw up an execution policy and should always aim to obtain the best possible result for their clients, including when they act as a client's counterparty. They should take all necessary steps to avoid the misuse by their employees of information related to client orders. Crypto-asset service providers that receive orders and transmit those orders to other crypto-asset service providers should implement procedures for the prompt and proper sending of those orders. Crypto-asset service providers should not receive any monetary or non-monetary benefits for transmitting those orders to any particular trading platform for crypto-assets or any other crypto-asset service providers. They should monitor the effectiveness of their order execution arrangements and execution policy, assessing whether the execution venues included in the order execution policy provide for the best possible result for the client or whether they need to make changes to their execution arrangements, and should notify clients with whom they have an ongoing client relationship of any material changes to their order execution arrangements or execution policy.
- (87) When a crypto-asset service provider executing orders for crypto-assets on behalf of clients is the client's counterparty, there might be similarities with the services of exchanging crypto-assets for funds or other crypto-assets. However, in exchanging crypto-assets for funds or other crypto-assets, the price for such exchanges is freely determined by the crypto-asset service provider as a currency exchange. Yet in the execution of orders for crypto-assets on behalf of clients, the crypto-asset service provider should always ensure that it obtains the best possible result for its client, including when it acts as the client's counterparty, in line with its best execution policy. The exchange of crypto-assets for funds or other crypto-assets when made by the issuer or offeror should not be a crypto-asset service.
- (88) Crypto-asset service providers that place crypto-assets for potential holders should, before the conclusion of a contract, communicate to those persons information on how they intend to perform their service. To ensure the protection of their clients, crypto-asset service providers that are authorised for the placing of crypto-assets should have in place specific and adequate procedures to prevent, monitor, manage and disclose any conflicts of interest arising from the placing of crypto-assets with their own clients and arising where the proposed price for the placing of crypto-assets has been overestimated or underestimated. The placing of crypto-assets on behalf of an offeror should not be deemed to be a separate offer.
- (89) To ensure consumer protection, crypto-asset service providers that provide advice on crypto-assets, either at the request of a client or on their own initiative, or that provide portfolio management of crypto-assets, should make an assessment whether those crypto-asset services or crypto-assets are suitable for the clients, having regard to their clients' experience, knowledge, objectives and ability to bear losses. Where the clients do not provide information to the crypto-asset service providers on their experience, knowledge, objectives and ability to bear losses, or it is clear that the crypto-assets are not suitable for the clients, the crypto-asset service providers should not recommend such crypto-asset services or crypto-assets to those clients, nor begin providing portfolio management of crypto-assets. When providing advice on crypto-assets, crypto-asset service providers should provide clients with a report, which should include the suitability assessment specifying the advice given and how it meets the preferences and objectives of clients. When providing portfolio management of crypto-assets, crypto-asset service providers should

- provide periodic statements to their clients, which should include a review of their activities and of the performance of the portfolio as well as an updated statement on the suitability assessment.
- (90) Some crypto-asset services, in particular providing custody and administration of crypto-assets on behalf of clients, the placing of crypto-assets, and transfer services for crypto-assets on behalf of clients, might overlap with payment services as defined in Directive (EU) 2015/2366.
- (91) The tools provided by issuers of electronic money to their clients to manage an e-money token might not be distinguishable from the activity of providing custody and administration services as regulated by this Regulation. Electronic money institutions should therefore be able to provide custody services, without prior authorisation under this Regulation to provide crypto-asset services, only in relation to the e-money tokens issued by them.
- (92) The activity of traditional electronic money distributors, namely, that of distributing electronic money on behalf of issuers, would amount to the activity of placing of crypto-assets for the purposes of this Regulation. However, natural or legal persons allowed to distribute electronic money under Directive 2009/110/EC should also be able to distribute e-money tokens on behalf of issuers of e-money tokens without being required to obtain prior authorisation under this Regulation to provide crypto-asset services. Such distributors should, therefore, be exempt from the requirement to seek authorisation as a crypto-asset service provider for the activity of the placing of crypto-assets.
- (93) A provider of transfer services for crypto-assets should be an entity that provides for the transfer, on behalf of a client, of crypto-assets from one distributed ledger address or account to another. Such transfer service should not include the validators, nodes or miners that might be part of confirming a transaction and updating the state of the underlying distributed ledger. Many crypto-asset service providers also offer some kind of transfer service for crypto-assets as part of, for example, the service of providing custody and administration of crypto-assets on behalf of clients, exchange of crypto-assets for funds or other crypto-assets, or execution of orders for crypto-assets on behalf of clients. Depending on the precise features of the services associated to the transfer of e-money tokens, such services could fall under the definition of payment services in Directive (EU) 2015/2366. In such cases, those transfers should be provided by an entity authorised to provide such payment services in accordance with that Directive.
- (94) This Regulation should not address the lending and borrowing of crypto-assets, including e-money tokens, and therefore should not prejudice applicable national law. The feasibility and necessity of regulating such activities should be further assessed.
- (95) It is important to ensure confidence in markets in crypto-assets and the integrity of those markets. It is therefore necessary to lay down rules to deter market abuse for crypto-assets that are admitted to trading. However, as issuers of crypto-assets and crypto-asset service providers are very often SMEs, it would be disproportionate to apply all of the provisions of Regulation (EU) No 596/2014 of the European Parliament and of the Council²¹ to them. It is therefore necessary to lay down specific rules prohibiting certain behaviours that are likely to undermine user confidence in markets in crypto-assets and the integrity of those markets, including insider dealing, unlawful disclosure of inside information and market manipulation related to crypto-assets. Those bespoke rules on market abuse committed in relation to crypto-assets should also be applied in cases where crypto-assets are admitted to trading.
- (96) Legal certainty for participants in markets in crypto-assets should be enhanced through a characterisation of two elements essential to the specification of inside information, namely, the precise nature of that

²¹ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

information and the significance of its potential effect on the prices of crypto-assets. Those elements should also be considered for the prevention of market abuse in the context of markets in crypto-assets and their functioning, taking into account, for instance, the use of social media, the use of smart contracts for order executions and the concentration of mining pools.

- (97) Derivatives that qualify as financial instruments as defined in Directive 2014/65/EU, and whose underlying asset is a crypto-asset, are subject to Regulation (EU) No 596/2014 when traded on a regulated market, multilateral trading facility or organised trading facility. Crypto-assets falling within the scope of this Regulation, which are underlying assets of those derivatives, should be subject to the market abuse provisions of this Regulation.
- (98) Competent authorities should be conferred with sufficient powers to supervise the issuance, offer to the public and admission to trading of crypto-assets, including asset-referenced tokens or e-money tokens, as well as to supervise crypto-asset service providers. Those powers should include the power to suspend or prohibit an offer to the public or an admission to trading of crypto-assets or the provision of a crypto-asset service, and to investigate infringements of the rules on market abuse. Issuers of crypto-assets other than asset-referenced tokens or e-money tokens should not be subject to supervision under this Regulation when the issuer is not an offeror or a person seeking admission to trading.
- (99) Competent authorities should also have the power to impose penalties on issuers, offerors or persons seeking admission to trading of crypto-assets, including asset-referenced tokens or e-money tokens, and on crypto-asset service providers. When determining the type and level of an administrative penalty or other administrative measure, competent authorities should take into account all relevant circumstances, including the gravity and the duration of the infringement and whether it was committed intentionally.
- (100) Given the cross-border nature of markets in crypto-assets, competent authorities should cooperate with each other to detect and deter any infringements of this Regulation.
- (101) To facilitate transparency regarding crypto-assets and crypto-asset service providers, ESMA should establish a register of crypto-asset white papers, issuers of asset-referenced tokens, issuers of e-money tokens and crypto-asset service providers.
- (102) Significant asset-referenced tokens can be used as a means of exchange and to make large volumes of payment transactions. Since such large volumes can pose specific risks to monetary transmission channels and monetary sovereignty, it is appropriate to assign to EBA the task of supervising the issuers of asset-referenced tokens, once such tokens have been classified as significant. Such assignment should address the very specific nature of the risks posed by asset-referenced tokens, and should not set a precedent for any other Union legislative acts on financial services.
- (103) Competent authorities in charge of supervision under Directive 2009/110/EC should supervise issuers of e-money tokens. However, given the potential widespread use of significant e-money tokens as a means of payment and the risks they can pose to financial stability, a dual supervision both by competent authorities and by EBA of issuers of significant e-money tokens is necessary. EBA should supervise the compliance by issuers of significant e-money tokens with the specific additional requirements set out in this Regulation for such tokens. Since the specific additional requirements should apply only to electronic money institutions issuing significant e-money tokens, credit institutions issuing significant e-money tokens, to which such requirements do not apply, should remain supervised by their respective competent authorities. The dual supervision should address the very specific nature of the risks posed by e-money tokens, and should not set a precedent for any other Union legislative acts on financial services.
- (104) Significant e-money tokens denominated in an official currency of a Member State other than the euro which are used as a means of exchange and in order to settle large volumes of payment transactions can,

although unlikely to occur, pose specific risks to the monetary sovereignty of the Member State in whose official currency they are denominated. Where at least 80 % of the number of holders and of the volume of transactions of those significant e-money tokens are concentrated in the home Member State, the supervisory responsibilities should not be transferred to EBA.

- (105) EBA should establish a college of supervisors for each issuer of significant asset-referenced tokens and of significant e-money tokens. Since issuers of significant asset-referenced tokens and of significant e-money tokens are usually at the centre of a network of entities that ensure the issuance, transfer and distribution of such crypto-assets, the members of the college of supervisors for each issuer should therefore include, amongst others, the competent authorities of the most relevant trading platforms for crypto-assets, in cases where the significant asset-referenced tokens or the significant e-money tokens are admitted to trading, and the competent authorities of the most relevant entities and crypto-asset service providers ensuring the custody and administration of the significant asset-referenced tokens and of significant e-money tokens on behalf of holders. The college of supervisors for issuers of significant asset-referenced tokens and of significant e-money tokens should facilitate the cooperation and exchange of information among its members and should issue non-binding opinions on, amongst others, changes to the authorisation of, or supervisory measures concerning, such issuers.

- (106) To supervise issuers of significant asset-referenced tokens and of significant e-money tokens, EBA should have the powers, amongst others, to carry out on-site inspections, take supervisory measures and impose fines.

- (107) EBA should charge fees to issuers of significant asset-referenced tokens and of significant e-money tokens to cover its costs, including for overheads. For issuers of significant asset-referenced tokens, the fee should be proportionate to the size of their reserve of assets. For issuers of significant e-money tokens, the fee should be proportionate to the amount of funds received in exchange for the significant e-money tokens.

- (108) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of further specifying technical elements of the definitions set out in this Regulation in order to adjust them to market and technological developments, further specifying certain criteria to determine whether an asset-referenced token or an e-money token should be classified as significant, determining when there is a significant investor protection concern or a threat to the proper functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system of the Union, further specifying the procedural rules for the exercise of the power of EBA to impose fines or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, and the collection of fines or periodic penalty payments, and the limitation periods for the imposition and enforcement of fines and periodic penalty payments, and further specifying the type and amount of supervisory fees that EBA can charge to the issuers of significant asset-referenced tokens or significant e-money tokens. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making²². In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (109) In order to promote the consistent application of this Regulation across the Union, including the adequate protection of holders of crypto-assets and clients of crypto-asset service providers, in particular when they are consumers, technical standards should be developed. It is efficient and appropriate to entrust EBA

²² OJ L 123, 12.5.2016, p. 1.

and ESMA, as bodies with highly specialised expertise, with the development of draft regulatory technical standards, which do not involve policy choices, for submission to the Commission.

- (110) The Commission should be empowered to adopt regulatory technical standards developed by EBA and ESMA with regard to: the content, methodologies and presentation of information in a crypto-asset white paper on principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the crypto-asset; the procedure for approval of crypto-asset white papers submitted by credit institutions when issuing asset-referenced tokens; the information that an application for authorisation as an issuer of asset-referenced tokens should contain; the methodology to estimate the quarterly average number and average aggregate value of transactions per day associated to uses of asset-referenced tokens and e-money tokens denominated in a currency which is not an official currency of a Member State as a means of exchange in each single currency area; the requirements, templates and procedures for handling complaints of holders of asset-referenced tokens and of clients of crypto-asset service providers; the requirements for the policies and procedures to identify, prevent, manage and disclose conflicts of interest of issuers of asset-referenced tokens and the details and methodology for the content of that disclosure; the procedure and timeframe for an issuer of asset-referenced tokens and significant e-money tokens to adjust to higher own funds requirements, the criteria for requiring higher own funds, the minimum requirements for the design of stress testing programmes; the liquidity requirements for the reserve of assets; the financial instruments into which the reserve of assets can be invested; detailed content of information necessary to carry out the assessment of the proposed acquisition of the qualifying holding in an issuer of asset-referenced tokens; requirements for additional obligations for issuers of significant asset-referenced tokens; the information that credit institutions, central securities depositories, investment firms, market operators, electronic money institutions, UCITS management companies and alternative investment fund managers who intend to provide crypto-asset services notify to competent authorities; the information that an application for the authorisation of crypto-asset service provider contains; the content, methodologies and presentation of information that the crypto-assets service provider makes publicly available and that is related to principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue each crypto-asset in relation to which they provide services; measures ensuring continuity and regularity in the performance of the crypto-asset services and the records to be kept of all crypto-asset services, orders and transactions that they undertake; the requirements for the policies to identify, prevent, manage and disclose conflicts of interest of crypto-asset service providers and the details and methodology for the content of that disclosure; the manner in which transparency data of the operator of a trading platform is to be offered and the content and format of order book records regarding the trading platform; the detailed content of the information necessary to carry out the assessment of the proposed acquisition of the qualifying holding in a crypto-asset service provider; the appropriate arrangements, systems and procedures for monitoring and detecting market abuse; the notification template for reporting suspicions of market abuse and coordination procedures between the relevant competent authorities for the detection of market abuse; the information to be exchanged between the competent authorities; a template document for cooperation arrangements between the competent authorities of Member States and supervisory authorities of third countries; the data necessary for the classification of crypto-asset white papers in ESMA's register and the practical arrangements to ensure that such data is machine-readable; the conditions under which certain members of college of supervisors for issuers of significant asset-referenced tokens and issuers of significant e-money tokens are to be considered most relevant in their category; and the conditions under which it is considered that asset-referenced tokens or e-money tokens are used at a large scale for the purposes of qualifying certain members of that college and details of the practical arrangements for the functioning of that college. The Commission should adopt those regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010 and of (EU) No 1095/2010, respectively.

- (111) The Commission should be empowered to adopt implementing technical standards developed by EBA and ESMA, with regard to: establishing standard forms, formats and templates for crypto-asset white papers; establishing standard forms, templates and procedures to transmit information for the purposes of the application for authorisation as an issuer of asset-referenced tokens; establishing standard forms, formats and templates for the purposes of reporting on asset-referenced tokens and e-money tokens denominated in a currency which is not an official currency of a Member State that are issued with a value higher than EUR 100 000 000; establishing standard forms, templates and procedures for the notification of information to competent authorities by credit institutions, central securities depositories, investment firms, market operators, electronic money institutions, UCITS management companies and alternative investment fund managers who intend to provide crypto-asset services; establishing standard forms, templates and procedures for the application for authorisation as crypto-asset service providers; determining the technical means for public disclosure of inside information and for delaying the public disclosure of inside information; and establishing standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and between competent authorities, EBA and ESMA. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010 and Article 15 of Regulation (EU) No 1095/2010.
- (112) Since the objectives of this Regulation, namely addressing the fragmentation of the legal framework applicable to offerors or persons seeking the admission to trading of crypto-assets other than asset-referenced tokens and e-money tokens, to issuers of asset-referenced tokens and e-money tokens and to crypto-asset service providers, and ensuring the proper functioning of markets in crypto-assets while ensuring the protection of holders of crypto-assets and clients of crypto-asset service providers, in particular retail holders, as well as the protection of market integrity and financial stability, cannot be sufficiently achieved by the Member States but can rather, by creating a framework on which a larger cross-border market in crypto-assets and crypto-asset service providers could develop, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (113) In order to avoid disrupting market participants that provide services and activities in relation to crypto-assets other than asset-referenced tokens and e-money tokens that have been issued before the date of application of this Regulation, issuers of such crypto-assets should be exempt from the obligation to publish a crypto-asset white paper and certain other requirements of this Regulation. However, certain obligations should apply when such crypto-assets were admitted to trading before the date of application of this Regulation. In order to avoid disruption to existing market participants, transitional provisions are necessary for issuers of asset-referenced tokens that were in operation at the time of entry into application of this Regulation.
- (114) Since the national regulatory frameworks applicable to crypto-asset service providers before the entry into application of this Regulation differ among Member States, it is essential that those Member States that do not, at present, have in place strong prudential requirements for crypto-asset service providers currently operating under their regulatory frameworks have the possibility of requiring such crypto-asset service providers to be subject to stricter requirements than those under the national regulatory frameworks. In such cases, Member States should be permitted to not apply, or to reduce, the 18-month transitional period that would otherwise allow crypto-asset service providers to provide services based on their existing national regulatory framework. Such an option for Member States should not set a precedent for any other Union legislative acts on financial services.
- (115) Whistleblowers should be able to bring new information to the attention of competent authorities that helps them in detecting infringements of this Regulation and imposing penalties. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent

authorities to actual or potential infringements of this Regulation and to protect them from retaliation. That should be done by amending Directive (EU) 2019/1937 of the European Parliament and of the Council²³ in order to make it applicable to infringements of this Regulation.

- (116) Given that EBA should be mandated with the direct supervision of issuers of significant asset-referenced tokens and of significant e-money tokens, and ESMA should be mandated to make use of its powers in relation to significant crypto-asset service providers, it is necessary to ensure that EBA and ESMA are able to exercise all of their powers and tasks in order to fulfil their objectives of protecting the public interest by contributing to the short-, medium- and long-term stability and effectiveness of the financial system for the Union economy, its citizens and businesses and to ensure that issuers of crypto-assets and crypto-asset service providers are covered by Regulations (EU) No 1093/2010 and (EU) No 1095/2010. Those Regulations should therefore be amended accordingly.
- (117) The issuance, offer or seeking of admission to trading of crypto-assets and the provision of crypto-asset services could involve the processing of personal data. Any processing of personal data under this Regulation should be carried out in accordance with applicable Union law on the protection of personal data. This Regulation is without prejudice to the rights and obligations under Regulation (EU) 2016/679 of the European Parliament and of the Council²⁴ and Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁵.
- (118) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 24 June 2021²⁶.
- (119) The date of application of this Regulation should be deferred in order to allow for the adoption of regulatory technical standards, implementing technical standards and delegated acts that are necessary to further specify certain elements of this Regulation,

HAVE ADOPTED THIS REGULATION:

²³ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

²⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

²⁶ OJ C 337, 23.8.2021, p. 4.

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1. This Regulation lays down uniform requirements for the offer to the public and admission to trading on a trading platform of crypto-assets other than asset-referenced tokens and e-money tokens, of asset-referenced tokens and of e-money tokens, as well as requirements for crypto-asset service providers.
2. In particular, this Regulation lays down the following:
 - (a) transparency and disclosure requirements for the issuance, offer to the public and admission of crypto-assets to trading on a trading platform for crypto-assets ('admission to trading');
 - (b) requirements for the authorisation and supervision of crypto-asset service providers, issuers of asset-referenced tokens and issuers of e-money tokens, as well as for their operation, organisation and governance;
 - (c) requirements for the protection of holders of crypto-assets in the issuance, offer to the public and admission to trading of crypto-assets;
 - (d) requirements for the protection of clients of crypto-asset service providers;
 - (e) measures to prevent insider dealing, unlawful disclosure of inside information and market manipulation related to crypto-assets, in order to ensure the integrity of markets in crypto-assets.

Article 2

Scope

1. This Regulation applies to natural and legal persons and certain other undertakings that are engaged in the issuance, offer to the public and admission to trading of crypto-assets or that provide services related to crypto-assets in the Union.
2. This Regulation does not apply to:
 - (a) persons who provide crypto-asset services exclusively for their parent companies, for their own subsidiaries or for other subsidiaries of their parent companies;
 - (b) a liquidator or an administrator acting in the course of an insolvency procedure, except for the purposes of Article 47;
 - (c) the ECB, central banks of the Member States when acting in their capacity as monetary authorities, or other public authorities of the Member States;
 - (d) the European Investment Bank and its subsidiaries;
 - (e) the European Financial Stability Facility and the European Stability Mechanism;
 - (f) public international organisations.
3. This Regulation does not apply to crypto-assets that are unique and not fungible with other crypto-assets.
4. This Regulation does not apply to crypto-assets that qualify as one or more of the following:
 - (a) financial instruments;
 - (b) deposits, including structured deposits;
 - (c) funds, except if they qualify as e-money tokens;
 - (d) securitisation positions in the context of a securitisation as defined in Article 2, point (1), of Regulation (EU) 2017/2402;
 - (e) non-life or life insurance products falling within the classes of insurance listed in Annexes I and II to Directive 2009/138/EC of the European Parliament and of the Council²⁷ or reinsurance and retrocession contracts referred to in that Directive;
 - (f) pension products that, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement and that entitle the investor to certain benefits;
 - (g) officially recognised occupational pension schemes falling within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council²⁸ or Directive 2009/138/EC;

²⁷ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

²⁸ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

(h) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;

(i) a pan-European Personal Pension Product as defined in Article 2, point (2), of Regulation (EU) 2019/1238 of the European Parliament and of the Council²⁹;

(j) social security schemes covered by Regulations (EC) No 883/2004³⁰ and (EC) No 987/2009 of the European Parliament and of the Council³¹.

5. By 30 December 2024, ESMA shall, for the purposes of paragraph 4, point (a), of this Article issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 on the conditions and criteria for the qualification of crypto-assets as financial instruments.

6. This Regulation shall be without prejudice to Regulation (EU) No 1024/2013.

²⁹ Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

³⁰ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

³¹ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

Article 3

Definitions

1. For the purposes of this Regulation, the following definitions apply:

(1) 'distributed ledger technology' or 'DLT' means a technology that enables the operation and use of distributed ledgers;

(2) 'distributed ledger' means an information repository that keeps records of transactions and that is shared across, and synchronised between, a set of DLT network nodes using a consensus mechanism;

(3) 'consensus mechanism' means the rules and procedures by which an agreement is reached, among DLT network nodes, that a transaction is validated;

(4) 'DLT network node' means a device or process that is part of a network and that holds a complete or partial replica of records of all transactions on a distributed ledger;

(5) 'crypto-asset' means a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology;

(6) 'asset-referenced token' means a type of crypto-asset that is not an electronic money token and that purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies;

(7) 'electronic money token' or 'e-money token' means a type of crypto-asset that purports to maintain a stable value by referencing the value of one official currency;

(8) 'official currency' means an official currency of a country that is issued by a central bank or other monetary authority;

(9) 'utility token' means a type of crypto-asset that is only intended to provide access to a good or a service supplied by its issuer;

(10) 'issuer' means a natural or legal person, or other undertaking, who issues crypto-assets;

(11) 'applicant issuer' means an issuer of asset-referenced tokens or e-money tokens who applies for authorisation to offer to the public or seeks the admission to trading of those crypto-assets;

(12) 'offer to the public' means a communication to persons in any form, and by any means, presenting sufficient information on the terms of the offer and the crypto-assets to be offered so as to enable prospective holders to decide whether to purchase those crypto-assets;

(13) 'offeror' means a natural or legal person, or other undertaking, or the issuer, who offers crypto-assets to the public;

(14) 'funds' means funds as defined in Article 4, point (25), of Directive (EU) 2015/2366;

(15) 'crypto-asset service provider' means a legal person or other undertaking whose occupation or business is the provision of one or more crypto-asset services to clients on a professional basis, and that is allowed to provide crypto-asset services in accordance with Article 59;

(16) 'crypto-asset service' means any of the following services and activities relating to any crypto-asset:

- (a) providing custody and administration of crypto-assets on behalf of clients;
- (b) operation of a trading platform for crypto-assets;
- (c) exchange of crypto-assets for funds;
- (d) exchange of crypto-assets for other crypto-assets;
- (e) execution of orders for crypto-assets on behalf of clients;
- (f) placing of crypto-assets;
- (g) reception and transmission of orders for crypto-assets on behalf of clients;
- (h) providing advice on crypto-assets;
- (i) providing portfolio management on crypto-assets;
- (j) providing transfer services for crypto-assets on behalf of clients;

(17) 'providing custody and administration of crypto-assets on behalf of clients' means the safekeeping or controlling, on behalf of clients, of crypto-assets or of the means of access to such crypto-assets, where applicable in the form of private cryptographic keys;

(18) 'operation of a trading platform for crypto-assets' means the management of one or more multilateral systems, which bring together or facilitate the bringing together of multiple third-party purchasing and selling interests in crypto-assets, in the system and in accordance with its rules, in a way that results in a contract, either by exchanging crypto-assets for funds or by the exchange of crypto-assets for other crypto-assets;

(19) 'exchange of crypto-assets for funds' means the conclusion of purchase or sale contracts concerning crypto-assets with clients for funds by using proprietary capital;

(20) 'exchange of crypto-assets for other crypto-assets' means the conclusion of purchase or sale contracts concerning crypto-assets with clients for other crypto-assets by using proprietary capital;

(21) 'execution of orders for crypto-assets on behalf of clients' means the conclusion of agreements, on behalf of clients, to purchase or sell one or more crypto-assets or the subscription on behalf of clients for one or more crypto-assets, and includes the conclusion of contracts to sell crypto-assets at the moment of their offer to the public or admission to trading;

(22) 'placing of crypto-assets' means the marketing, on behalf of or for the account of the offeror or a party related to the offeror, of crypto-assets to purchasers;

(23) 'reception and transmission of orders for crypto-assets on behalf of clients' means the reception from a person of an order to purchase or sell one or more crypto-assets or to subscribe for one or more crypto-assets and the transmission of that order to a third party for execution;

(24) 'providing advice on crypto-assets' means offering, giving or agreeing to give personalised recommendations to a client, either at the client's request or on the initiative of the crypto-asset service provider providing the advice, in respect of one or more transactions relating to crypto-assets, or the use of crypto-asset services;

(25) 'providing portfolio management of crypto-assets' means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more crypto-assets;

(26) 'providing transfer services for crypto-assets on behalf of clients' means providing services of transfer, on behalf of a natural or legal person, of crypto-assets from one distributed ledger address or account to another;

(27) 'management body' means the body or bodies of an issuer, offeror or person seeking admission to trading, or of a crypto-asset service provider, which are appointed in accordance with national law, which are empowered to set the entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making in the entity and include the persons who effectively direct the business of the entity;

(28) 'credit institution' means a credit institution as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 and authorised under Directive 2013/36/EU;

(29) 'investment firm' means an investment firm as defined in Article 4(1), point (2), of Regulation (EU) No 575/2013 and authorised under Directive 2014/65/EU;

(30) 'qualified investors' means persons or entities that are listed in Section I, points (1) to (4), of Annex II to Directive 2014/65/EU;

(31) 'close links' means close links as defined in Article 4(1), point (35), of Directive 2014/65/EU;

(32) 'reserve of assets' means the basket of reserve assets securing the claim against the issuer;

(33) 'home Member State' means:

- (a) where the offeror or person seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens has its registered office in the Union, the Member State where that offeror or person has its registered office;
- (b) where the offeror or person seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens has no registered office in the Union but does have one or more branches in the Union, the Member State chosen by that offeror or person from among the Member States where it has branches;
- (c) where the offeror or person seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens is established in a third country and has no branch in the Union, either the Member State where the crypto-assets are intended to be offered to the public for the first time or, at the choice of the offeror or person seeking admission to trading, the Member State where the first application for admission to trading of those crypto-assets is made;
- (d) in the case of an issuer of asset-referenced tokens, the Member State where the issuer of asset-referenced tokens has its registered office;
- (e) in the case of an issuer of e-money tokens, the Member State where the issuer of e-money tokens is authorised as a credit institution under Directive 2013/36/EU or as an electronic money institution under Directive 2009/110/EC;
- (f) in the case of crypto-asset service providers, the Member State where the crypto-asset service provider has its registered office;

(34) 'host Member State' means the Member State where an offeror or person seeking admission to trading has made an offer to the public of crypto-assets or is seeking admission to trading, or where a crypto-asset service provider provides crypto-asset services, where different from the home Member State;

(35) 'competent authority' means one or more authorities:

(a) designated by each Member State in accordance with Article 93 concerning offerors, persons seeking admission to trading of crypto-assets other than asset-referenced tokens and e-money tokens, issuers of asset-referenced tokens, or crypto-asset service providers;

(b) designated by each Member State for the application of Directive 2009/110/EC concerning issuers of e-money tokens;

(36) 'qualifying holding' means any direct or indirect holding in an issuer of asset-referenced tokens or in a crypto-asset service provider which represents at least 10 % of the capital or of the voting rights, as set out in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council³², respectively, taking into account the conditions for the aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the issuer of asset-referenced tokens or the management of the crypto-asset service provider in which that holding subsists;

(37) 'retail holder' means any natural person who is acting for purposes which are outside that person's trade, business, craft or profession;

(38) 'online interface' means any software, including a website, part of a website or an application, that is operated by or on behalf of an offeror or crypto-asset service provider, and which serves to give holders of crypto-assets access to their crypto-assets and to give clients access to crypto-asset services;

(39) 'client' means any natural or legal person to whom a crypto-asset service provider provides crypto-asset services;

(40) 'matched principal trading' means matched principal trading as defined in Article 4(1), point (38), of Directive 2014/65/EU;

(41) 'payment services' means payment services as defined in Article 4, point (3), of Directive (EU) 2015/2366;

(42) 'payment service provider' means a payment service provider as defined in Article 4, point (11), of Directive (EU) 2015/2366;

(43) 'electronic money institution' means an electronic money institution as defined in Article 2, point (1), of Directive 2009/110/EC;

(44) 'electronic money' means electronic money as defined in Article 2, point (2), of Directive 2009/110/EC;

(45) 'personal data' means personal data as defined in Article 4, point (1), of Regulation (EU) 2016/679;

(46) 'payment institution' means a payment institution as defined in Article 4, point (4), of Directive (EU) 2015/2366;

(47) 'UCITS management company' means a management company as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council³³;

³² Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

³³ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

(48) 'alternative investment fund manager' means an AIFM as defined in Article 4(1), point (b), of Directive 2011/61/EU of the European Parliament and of the Council³⁴;

(49) 'financial instrument' means financial instruments as defined in Article 4(1), point (15), of Directive 2014/65/EU;

(50) 'deposit' means a deposit as defined in Article 2(1), point (3), of Directive 2014/49/EU;

(51) 'structured deposit' means a structured deposit as defined in Article 4(1), point (43), of Directive 2014/65/EU.

2. The Commission shall adopt delegated acts in accordance with Article 139 to supplement this Regulation by further specifying technical elements of the definitions laid down in paragraph 1 of this Article, and to adjust those definitions to market developments and technological developments.

³⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

TITLE II

CRYPTO-ASSETS OTHER THAN ASSET-REFERENCED TOKENS OR E-MONEY TOKENS

Article 4

Offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens

1. A person shall not make an offer to the public of a crypto-asset other than an asset-referenced token or e-money token in the Union unless that person:

- (a) is a legal person;
- (b) has drawn up a crypto-asset white paper in respect of that crypto-asset in accordance with Article 6;
- (c) has notified the crypto-asset white paper in accordance with Article 8;
- (d) has published the crypto-asset white paper in accordance with Article 9;
- (e) has drafted the marketing communications, if any, in respect of that crypto-asset in accordance with Article 7;
- (f) has published the marketing communications, if any, in respect of that crypto-asset in accordance with Article 9;
- (g) complies with the requirements for offerors laid down in Article 14.

2. Paragraph 1, points (b), (c), (d) and (f), shall not apply to any of the following offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens:

- (a) an offer to fewer than 150 natural or legal persons per Member State where such persons are acting on their own account;
- (b) over a period of 12 months, starting with the beginning of the offer, the total consideration of an offer to the public of a crypto-asset in the Union does not exceed EUR 1 000 000 , or the equivalent amount in another official currency or in crypto-assets;
- (c) an offer of a crypto-asset addressed solely to qualified investors where the crypto-asset can only be held by such qualified investors.

3. This Title shall not apply to offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens where any of the following apply:

- (a) the crypto-asset is offered for free;
- (b) the crypto-asset is automatically created as a reward for the maintenance of the distributed ledger or the validation of transactions;
- (c) the offer concerns a utility token providing access to a good or service that exists or is in operation;

(d) the holder of the crypto-asset has the right to use it only in exchange for goods and services in a limited network of merchants with contractual arrangements with the offeror.

For the purposes of point (a) of the first subparagraph, a crypto-asset shall not be considered to be offered for free where purchasers are required to provide, or to undertake to provide, personal data to the offeror in exchange for that crypto-asset, or where the offeror of a crypto-asset receives from prospective holders of that crypto-asset any fees, commissions, or monetary or non-monetary benefits in exchange for that crypto-asset.

Where, for each 12-month period starting from the beginning of the initial offer to the public, the total consideration of an offer to the public of a crypto-asset in the circumstances referred to in the first subparagraph, point (d), in the Union exceeds EUR 1 000 000, the offeror shall send a notification to the competent authority containing a description of the offer and explaining why the offer is exempt from this Title pursuant to the first subparagraph, point (d).

Based on the notification referred to in the third subparagraph, the competent authority shall take a duly justified decision where it considers that the activity does not qualify for an exemption as a limited network under the first subparagraph, point (d), and shall inform the offeror accordingly.

4. The exemptions listed in paragraphs 2 and 3 shall not apply where the offeror, or another person acting on the offeror's behalf, makes known in any communication its intention to seek admission to trading of a crypto-asset other than an asset-referenced token or e-money token.

5. Authorisation as a crypto-asset service provider pursuant to Article 59 is not required for providing custody and administration of crypto-assets on behalf of clients or for providing transfer services for crypto-assets in relation to crypto-assets whose offers to the public are exempt pursuant to paragraph 3 of this Article, unless:

(a) there exists another offer to the public of the same crypto-asset and that offer does not benefit from the exemption; or

(b) the crypto-asset offered is admitted to a trading platform.

6. Where the offer to the public of the crypto-asset other than an asset-referenced token or e-money token concerns a utility token providing access to goods and services that do not yet exist or are not yet in operation, the duration of the offer to the public as described in the crypto-asset white paper shall not exceed 12 months from the date of publication of the crypto-asset white paper.

7. Any subsequent offer to the public of the crypto-asset other than an asset-referenced token or e-money token shall be deemed a separate offer to the public to which the requirements of paragraph 1 apply, without prejudice to the possible application of paragraph 2 or 3 to the subsequent offer to the public.

No additional crypto-asset white paper shall be required for any subsequent offer to the public of the crypto-asset other than an asset-referenced token or e-money token so long as a crypto-asset white paper has been published in accordance with Articles 9 and 12, and the person responsible for drawing up such white paper consents to its use in writing.

8. Where an offer to the public of a crypto-asset other than an asset-referenced token or e-money token is exempt from the obligation to publish a crypto-asset white paper under paragraph 2 or 3, but a white paper is nevertheless drawn up voluntarily, this Title shall apply.

Article 5

Admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens

1. A person shall not seek admission to trading of a crypto-asset other than an asset-referenced token or e-money token within the Union unless that person:

- (a) is a legal person;
- (b) has drawn up a crypto-asset white paper in respect of that crypto-asset in accordance with Article 6;
- (c) has notified the crypto-asset white paper in accordance with Article 8;
- (d) has published the crypto-asset white paper in accordance with Article 9;
- (e) has drafted the marketing communications, if any, in respect of that crypto-asset in accordance with Article 7;
- (f) has published the marketing communications, if any, in respect of that crypto-asset in accordance with Article 9;
- (g) complies with the requirements for persons seeking admission to trading laid down in Article 14.

2. When a crypto-asset is admitted to trading on the initiative of the operator of a trading platform and a crypto-asset white paper has not been published in accordance with Article 9 in the cases required by this Regulation, the operator of that trading platform for crypto-assets shall comply with the requirements set out in paragraph 1 of this Article.

3. By way of derogation from paragraph 1, a person seeking admission to trading of a crypto-asset other than an asset-referenced token or e-money token and the respective operator of the trading platform may agree in writing that it shall be the operator of the trading platform who is required to comply with all or part of the requirements referred to in paragraph 1, points (b) to (g).

The agreement in writing referred to in the first subparagraph of this paragraph shall clearly state that the person seeking admission to trading is required to provide the operator of the trading platform with all necessary information to enable that operator to satisfy the requirements referred to in paragraph 1, points (b) to (g), as applicable.

4. Paragraph 1, points (b), (c) and (d), shall not apply where:

- (a) the crypto-asset is already admitted to trading on another trading platform for crypto-assets in the Union; and
- (b) the crypto-asset white paper is drawn up in accordance with Article 6, updated in accordance with Article 12, and the person responsible for drawing up such white paper consents to its use in writing.

Article 6

Content and form of the crypto-asset white paper

1. A crypto-asset white paper shall contain all of the following information, as further specified in Annex I:
 - (a) information about the offeror or the person seeking admission to trading;
 - (b) information about the issuer, if different from the offeror or person seeking admission to trading;
 - (c) information about the operator of the trading platform in cases where it draws up the crypto-asset white paper;
 - (d) information about the crypto-asset project;
 - (e) information about the offer to the public of the crypto-asset or its admission to trading;
 - (f) information about the crypto-asset;
 - (g) information on the rights and obligations attached to the crypto-asset;
 - (h) information on the underlying technology;
 - (i) information on the risks;
 - (j) information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the crypto-asset.

In cases where the crypto-asset white paper is not drawn up by the persons referred to in the first subparagraph, points (a), (b) and (c), the crypto-asset white paper shall also include the identity of the person that drew up the crypto-asset white paper and the reason why that particular person drew it up.

2. All of the information listed in paragraph 1 shall be fair, clear and not misleading. The crypto-asset white paper shall not contain material omissions and shall be presented in a concise and comprehensible form.

3. The crypto-asset white paper shall contain the following clear and prominent statement on the first page:

'This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset white paper.'

Where the crypto-asset white paper is drawn up by the person seeking admission to trading or by an operator of a trading platform, then, instead of 'offeror', a reference to 'person seeking admission to trading' or 'operator of the trading platform' shall be included in the statement referred to in the first subparagraph.

4. The crypto-asset white paper shall not contain any assertions as regards the future value of the crypto-asset, other than the statement referred to in paragraph 5.

5. The crypto-asset white paper shall contain a clear and unambiguous statement that:

- (a) the crypto-asset may lose its value in part or in full;
- (b) the crypto-asset may not always be transferable;

- (c) the crypto-asset may not be liquid;
- (d) where the offer to the public concerns a utility token, that utility token may not be exchangeable against the good or service promised in the crypto-asset white paper, especially in the case of a failure or discontinuation of the crypto-asset project;
- (e) the crypto-asset is not covered by the investor compensation schemes under Directive 97/9/EC of the European Parliament and of the Council³⁵;
- (f) the crypto-asset is not covered by the deposit guarantee schemes under Directive 2014/49/EU.

6. The crypto-asset white paper shall contain a statement from the management body of the offeror, the person seeking admission to trading or the operator of the trading platform. That statement, which shall be inserted after the statement referred to in paragraph 3, shall confirm that the crypto-asset white paper complies with this Title and that, to the best of the knowledge of the management body, the information presented in the crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.

7. The crypto-asset white paper shall contain a summary, inserted after the statement referred to in paragraph 6, which shall in brief and non-technical language provide key information about the offer to the public of the crypto-asset or the intended admission to trading. The summary shall be easily understandable and presented and laid out in a clear and comprehensive format, using characters of readable size. The summary of the crypto-asset white paper shall provide appropriate information about the characteristics of the crypto-asset concerned in order to help prospective holders of the crypto-asset to make an informed decision.

The summary shall contain a warning that:

- (a) it should be read as an introduction to the crypto-asset white paper;
- (b) the prospective holder should base any decision to purchase the crypto-asset on the content of the crypto-asset white paper as a whole and not on the summary alone;
- (c) the offer to the public of the crypto-asset does not constitute an offer or solicitation to purchase financial instruments and that any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law;
- (d) the crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 of the European Parliament and of the Council³⁶ or any other offer document pursuant to Union or national law.

8. The crypto-asset white paper shall contain the date of its notification and a table of contents.

9. The crypto-asset white paper shall be drawn up in an official language of the home Member State, or in a language customary in the sphere of international finance.

Where the crypto-asset is also offered in a Member State other than the home Member State, the crypto-asset white paper shall also be drawn up in an official language of the host Member State, or in a language customary in the sphere of international finance.

³⁵ Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 84, 26.3.1997, p. 22).

³⁶ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

10. The crypto-asset white paper shall be made available in a machine-readable format.

11. ESMA, in cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, formats and templates for the purposes of paragraph 10.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

12. ESMA, in cooperation with EBA, shall develop draft regulatory technical standards on the content, methodologies and presentation of the information referred to in paragraph 1, first subparagraph, point (j), in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

When developing the draft regulatory technical standards referred to in the first subparagraph, ESMA shall consider the various types of consensus mechanisms used to validate transactions in crypto-assets, their incentive structures and the use of energy, renewable energy and natural resources, the production of waste and greenhouse gas emissions. ESMA shall update those regulatory technical standards in the light of regulatory and technological developments.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 7

Marketing communications

1. Any marketing communications relating to an offer to the public of a crypto-asset other than an asset-referenced token or e-money token, or to the admission to trading of such crypto-asset, shall comply with all of the following requirements:

- (a) the marketing communications are clearly identifiable as such;
- (b) the information in the marketing communications is fair, clear and not misleading;
- (c) the information in the marketing communications is consistent with the information in the crypto-asset white paper, where such crypto-asset white paper is required pursuant to Article 4 or 5;
- (d) the marketing communications clearly state that a crypto-asset white paper has been published and clearly indicate the address of the website of the offeror, the person seeking admission to trading, or the operator of the trading platform for the crypto-asset concerned, as well as a telephone number and an email address to contact that person;
- (e) the marketing communications contain the following clear and prominent statement:

'This crypto-asset marketing communication has not been reviewed or approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset marketing communication.'

Where the marketing communication is prepared by the person seeking admission to trading or the operator of a trading platform, then, instead of 'offeror', a reference to 'person seeking admission to trading' or 'operator of the trading platform' shall be included in the statement referred to in the first subparagraph, point (e).

2. Where a crypto-asset white paper is required pursuant to Article 4 or 5, no marketing communications shall be disseminated prior to the publication of the crypto-asset white paper. The ability of the offeror, the person seeking admission to trading or the operator of a trading platform, to conduct market soundings shall not be affected.

3. The competent authority of the Member State where the marketing communications are disseminated shall have the power to assess compliance with paragraph 1 in respect of those marketing communications.

Where necessary, the competent authority of the home Member State shall assist the competent authority of the Member State where the marketing communications are disseminated with assessing the consistency of the marketing communications with the information in the crypto-asset white paper.

4. The use of any of the supervisory and investigatory powers set out in Article 94 in relation to the enforcement of this Article by the competent authority of a host Member State shall be notified without undue delay to the competent authority of the home Member State of the offeror, the person seeking admission to trading or the operator of the trading platform for the crypto-assets.

Article 8

Notification of the crypto-asset white paper and of the marketing communications

1. Offerors, persons seeking admission to trading, or operators of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens shall notify their crypto-asset white paper to the competent authority of their home Member State.
2. Marketing communications shall, upon request, be notified to the competent authority of the home Member State and to the competent authority of the host Member State, when addressing prospective holders of crypto-assets other than asset-referenced tokens or e-money tokens in those Member States.
3. Competent authorities shall not require prior approval of crypto-asset white papers, nor of any marketing communications relating thereto, before their respective publication.
4. The notification of the crypto-asset white paper referred to in paragraph 1 shall be accompanied by an explanation of why the crypto-asset described in the crypto-asset white paper should not be considered to be:
 - (a) a crypto-asset excluded from the scope of this Regulation pursuant to Article 2(4);
 - (b) an e-money token; or
 - (c) an asset-referenced token.
5. The elements referred in paragraphs 1 and 4 shall be notified to the competent authority of the home Member State at least 20 working days before the date of publication of the crypto-asset white paper.
6. Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens shall, together with the notification referred to in paragraph 1, provide the competent authority of their home Member State with a list of the host Member States, if any, where they intend to offer their crypto-assets to the public or intend to seek admission to trading. They shall also inform the competent authority of their home Member State of the starting date of the intended offer to the public or intended admission to trading and of any change to that date.

The competent authority of the home Member State shall notify the single point of contact of the host Member States of the intended offer to the public or the intended admission to trading and communicate to that single point of contact the corresponding crypto-asset white paper within five working days of receipt of the list of host Member States referred to in the first subparagraph.

7. The competent authority of the home Member State shall communicate to ESMA the information referred to in paragraphs 1, 2 and 4 as well as the starting date of the intended offer to the public or intended admission to trading and of any change to that date. It shall communicate such information within five working days of receipt thereof from the offeror or the person seeking admission to trading.

ESMA shall make the crypto-asset white paper available in the register, under Article 109(2), by the starting date of the offer to the public or admission to trading.

Article 9

Publication of the crypto-asset white paper and of the marketing communications

1. Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens shall publish their crypto-asset white papers and, where applicable, their marketing communications, on their website, which shall be publicly accessible, at a reasonable time in advance of, and in any event before the starting date of, the offer to the public of those crypto-assets or the admission to trading of those crypto-assets. The crypto-asset white papers and, where applicable, the marketing communications, shall remain available on the website of the offerors or persons seeking admission trading for as long as the crypto-assets are held by the public.
2. The published crypto-asset white papers and, where applicable, the marketing communications, shall be identical to the version notified to the competent authority in accordance with Article 8 or, where applicable, to the version modified in accordance with Article 12.

Article 10

Result of the offer to the public and safeguarding arrangements

1. Offerors of crypto-assets other than asset-referenced tokens or e-money tokens that set a time limit on their offer to the public of those crypto-assets shall publish on their website the result of the offer to the public within 20 working days of the end of the subscription period.
2. Offerors of crypto-assets other than asset-referenced tokens or e-money tokens that do not set a time limit on their offer to the public of those crypto-assets shall publish on their website on an ongoing basis, at least monthly, the number of units of the crypto-assets in circulation.
3. Offerors of crypto-assets other than asset-referenced tokens or e-money tokens that set a time limit on their offer to the public of crypto-assets shall have effective arrangements in place to monitor and safeguard the funds or other crypto-assets raised during the offer to the public. For that purpose, those offerors shall ensure that the funds or crypto-assets collected during the offer to the public are kept in custody by one or both of the following:
 - (a) a credit institution, where funds are raised during the offer to the public;
 - (b) a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients.
4. When the offer to the public has no time limit, the offeror shall comply with paragraph 3 of this Article until the right of withdrawal of the retail holder pursuant to Article 13 has expired.

Article 11

Rights of offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens

1. After publication of the crypto-asset white paper in accordance with Article 9 and, where applicable, of the modified crypto-asset white paper in accordance with Article 12, offerors may offer crypto-assets other than asset-referenced tokens or e-money tokens throughout the Union and such crypto-assets may be admitted to trading on a trading platform for crypto-assets in the Union.
2. Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens that have published a crypto-asset white paper in accordance with Article 9 and, where applicable, a modified crypto-asset white paper pursuant to Article 12, shall not be subject to any further information requirements with regard to the offer to the public or the admission to trading of that crypto-asset.

Article 12

Modification of published crypto-asset white papers and of published marketing communications

1. Offerors, persons seeking admission to trading or operators of a trading platform for crypto-assets other than asset-referenced tokens or e-money tokens shall modify their published crypto-asset white papers and, where applicable, their published marketing communications, whenever there is a significant new factor, material mistake or material inaccuracy that is capable of affecting the assessment of the crypto-assets. That requirement shall apply for the duration of the offer to the public or for as long as the crypto-asset is admitted to trading.
 2. Offerors, persons seeking admission to trading or operators of a trading platform for crypto-assets other than asset-referenced tokens or e-money tokens shall notify their modified crypto-asset white papers and, where applicable, modified marketing communications, and the intended publication date, to the competent authority of their home Member State, including the reasons for such modification, at least seven working days before their publication.
 3. On the date of publication, or earlier if required by the competent authority, the offeror, the person seeking admission to trading or the operator of the trading platform shall immediately inform the public on its website of the notification of a modified crypto-asset white paper with the competent authority of its home Member State and shall provide a summary of the reasons for which it has notified a modified crypto-asset white paper.
 4. The order of the information in a modified crypto-asset white paper and, where applicable, in modified marketing communications, shall be consistent with that of the crypto-asset white paper or marketing communications published in accordance with Article 9.
 5. Within five working days of receipt of the modified crypto-asset white paper and, where applicable, of the modified marketing communications, the competent authority of the home Member State shall notify the modified crypto-asset white paper and, where applicable, the modified marketing communications to the competent authority of the host Member States referred to in Article 8(6) and communicate the notification and the date of publication to ESMA.
- ESMA shall make the modified crypto-asset white paper available in the register, under Article 109(2), upon publication.
6. Offerors, persons seeking admission to trading or operators of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens shall publish the modified crypto-asset white paper and, where applicable, the modified marketing communications, including the reasons for such modification, on their website in accordance with Article 9.
 7. The modified crypto-asset white paper and, where applicable, the modified marketing communications, shall be time-stamped. The most recent modified crypto-asset white paper and, where applicable, the modified marketing communications shall be marked as the applicable version. All modified crypto-asset white papers and, where applicable, modified marketing communications shall remain available for as long as the crypto-assets are held by the public.
 8. Where the offer to the public concerns a utility token providing access to goods and services that do not yet exist or are not yet in operation, changes made in the modified crypto-asset white paper and, where applicable, the modified marketing communications, shall not extend the time limit of 12 months referred to in Article 4(6).

9. Older versions of the crypto-asset white paper and the marketing communications shall remain publicly available on the website of the offerors, persons seeking admission to trading, or operators of trading platforms, for at least 10 years after the date of publication of those older versions, with a prominent warning stating that they are no longer valid and with a hyperlink to the dedicated section on the website where the most recent version of those documents is published.

Article 13

Right of withdrawal

1. Retail holders who purchase crypto-assets other than asset-referenced tokens and e-money tokens either directly from an offeror or from a crypto-asset service provider placing crypto-assets on behalf of that offeror shall have a right of withdrawal.

Retail holders shall have a period of 14 calendar days within which to withdraw from their agreement to purchase crypto-assets other than asset-referenced tokens and e-money tokens without incurring any fees or costs and without being required to give reasons. The period of withdrawal shall begin from the date of the agreement of the retail holder to purchase those crypto-assets.

2. All payments received from a retail holder including, if applicable, any charges, shall be reimbursed without undue delay and in any event no later than 14 days from the date on which the offeror or the crypto-asset service provider placing crypto-assets on behalf of that offeror is informed of the retail holder's decision to withdraw from the agreement to purchase those crypto-assets.

Such reimbursement shall be carried out using the same means of payment as that used by the retail holder for the initial transaction, unless the retail holder expressly agrees otherwise and provided that the retail holder does not incur any fees or costs as a result of such reimbursement.

3. Offerors of crypto-assets shall provide information on the right of withdrawal referred to in paragraph 1 in their crypto-asset white paper.

4. The right of withdrawal referred to in paragraph 1 shall not apply where the crypto-assets have been admitted to trading prior to their purchase by the retail holder.

5. Where offerors have set a time limit on their offer to the public of such crypto-assets in accordance with Article 10, the right of withdrawal shall not be exercised after the end of the subscription period.

Article 14

Obligations of offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens

1. Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens shall:

- (a) act honestly, fairly and professionally;
- (b) communicate with holders and prospective holders of the crypto-assets in a fair, clear and not misleading manner;
- (c) identify, prevent, manage and disclose any conflicts of interest that might arise;
- (d) maintain all of their systems and security access protocols in conformity with the appropriate Union standards.

For the purposes of point (d) of the first subparagraph, ESMA, in cooperation with EBA, shall by 30 December 2024 issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify those Union standards.

2. Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens shall act in the best interests of the holders of such crypto-assets and shall treat them equally, unless any preferential treatment of specific holders and the reasons for that preferential treatment are disclosed in the crypto-asset white paper and, where applicable, the marketing communications.

3. Where an offer to the public of a crypto-asset other than an asset-referenced token or e-money token is cancelled, offerors of such crypto-asset shall ensure that any funds collected from holders or prospective holders are duly returned to them no later than 25 calendar days after the date of cancellation.

Article 15

Liability for the information given in a crypto-asset white paper

1. Where an offeror, person seeking admission to trading or operator of a trading platform, has infringed Article 6 by providing in its crypto-asset white paper or in a modified crypto-asset white paper information that is not complete, fair or clear or that is misleading, that offeror, person seeking admission to trading or operator of a trading platform and the members of its administrative, management or supervisory body shall be liable to a holder of the crypto-asset for any loss incurred due to that infringement.
2. Any contractual exclusion or limitation of civil liability as referred to in paragraph 1 shall be deprived of legal effect.
3. Where the crypto-asset white paper and marketing communications are prepared by the operator of the trading platform in accordance with Article 5(3), the person seeking admission to trading shall also be held responsible when it provides information that is not complete, fair or clear, or that is misleading to the operator of the trading platform.
4. It shall be the responsibility of the holder of the crypto-asset to present evidence indicating that the offeror, person seeking admission to trading, or operator of the trading platform for crypto-assets other than asset-referenced tokens or e-money tokens has infringed Article 6 by providing information that is not complete, fair or clear, or that is misleading and that reliance on such information had an impact on the holder's decision to purchase, sell or exchange that crypto-asset.
5. The offeror, person seeking admission to trading, or operator of the trading platform and the members of its administrative, management or supervisory body shall not be liable to a holder of a crypto-asset for loss incurred as a result of reliance on the information provided in a summary as referred to in Article 6(7), including any translation thereof, except where the summary:
 - (a) is misleading, inaccurate or inconsistent when read together with the other parts of the crypto-asset white paper; or
 - (b) does not provide, when read together with the other parts of the crypto-asset white paper, key information in order to aid prospective holders of the crypto-asset when considering whether to purchase such crypto-asset.
6. This Article is without prejudice to any other civil liability pursuant to national law.

TITLE III ASSET-REFERENCED TOKENS

CHAPTER I

Authorisation to offer asset-referenced tokens to the public and to seek their admission to trading

Article 16

Authorisation

1. A person shall not make an offer to the public, or seek the admission to trading, of an asset-referenced token, within the Union, unless that person is the issuer of that asset-referenced token and is:

(a) a legal person or other undertaking that is established in the Union and has been authorised in accordance with Article 21 by the competent authority of its home Member State; or

(b) a credit institution that complies with Article 17.

Notwithstanding the first subparagraph, upon the written consent of the issuer of an asset-referenced token, other persons may offer to the public or seek the admission to trading of that asset-referenced token. Those persons shall comply with Articles 27, 29 and 40.

For the purposes of point (a) of the first subparagraph, other undertakings may issue asset-referenced tokens only if their legal form ensures a level of protection for third parties' interests equivalent to that afforded by legal persons and if they are subject to equivalent prudential supervision appropriate to their legal form.

2. Paragraph 1 shall not apply where:

(a) over a period of 12 months, calculated at the end of each calendar day, the average outstanding value of the asset-referenced token issued by an issuer never exceeds EUR 5 000 000 , or the equivalent amount in another official currency, and the issuer is not linked to a network of other exempt issuers; or

(b) the offer to the public of the asset-referenced token is addressed solely to qualified investors and the asset-referenced token can only be held by such qualified investors.

Where this paragraph applies, issuers of asset-referenced tokens shall draw up a crypto-asset white paper as provided for in Article 19 and notify that crypto-asset white paper and, upon request, any marketing communications, to the competent authority of their home Member State.

3. The authorisation granted by the competent authority to a person referred to in paragraph 1, first subparagraph, point (a), shall be valid for the entire Union and shall allow an issuer of an asset-referenced token to offer to the public, throughout the Union, the asset-referenced token for which it has been authorised, or to seek an admission to trading of such asset-referenced token.

4. The approval granted by the competent authority of an issuer's crypto-asset white paper under Article 17(1) or Article 21(1) or of the modified crypto-asset white paper under Article 25 shall be valid for the entire Union.

Article 17

Requirements for credit institutions

1. An asset-referenced token issued by a credit institution may be offered to the public or admitted to trading if the credit institution:

(a) draws up a crypto-asset white paper as referred to in Article 19 for the asset-referenced token, submits that crypto-asset white paper for approval by the competent authority of its home Member State in accordance with the procedure set out in the regulatory technical standards adopted pursuant to paragraph 8 of this Article, and has the crypto-asset white paper approved by the competent authority;

(b) notifies the respective competent authority, at least 90 working days before issuing the asset-referenced token for the first time, by providing it with the following information:

- (i) a programme of operations, setting out the business model that the credit institution intends to follow;
- (ii) a legal opinion that the asset-referenced token does not qualify as either of the following:
 - a crypto-asset excluded from the scope of this Regulation pursuant to Article 2(4);
 - an e-money token;
- (iii) a detailed description of the governance arrangements referred to in Article 34(1);
- (iv) the policies and procedures listed in Article 34(5), first subparagraph;
- (v) a description of the contractual arrangements with third-party entities as referred to in Article 34(5), second subparagraph;
- (vi) a description of the business continuity policy referred to in Article 34(9);
- (vii) a description of the internal control mechanisms and risk management procedures referred to in Article 34(10);
- (viii) a description of the systems and procedures in place to safeguard the availability, authenticity, integrity and confidentiality of data referred to in Article 34(11).

2. A credit institution that has previously notified the competent authority in accordance with paragraph 1, point (b), when issuing another asset-referenced token shall not be required to submit any information that was previously submitted by it to the competent authority where such information would be identical. When submitting the information listed in paragraph 1, point (b), the credit institution shall expressly confirm that any information not resubmitted is still up-to-date.

3. The competent authority receiving a notification referred to in paragraph 1, point (b), shall, within 20 working days of receipt of the information listed therein, assess whether the information required under that point has been provided. Where the competent authority concludes that a notification is not complete because information is missing, it shall immediately inform the notifying credit institution thereof and set a deadline by which that credit institution is required to provide the missing information.

The deadline for providing any missing information shall not exceed 20 working days from the date of the request. Until the expiry of that deadline, the period set by paragraph 1, point (b), shall be suspended. Any further

requests by the competent authority for completion or clarification of the information shall be at its discretion but shall not result in a suspension of the period set by paragraph 1, point (b).

The credit institution shall not make an offer to the public or seek the admission to trading of the asset-referenced token as long as the notification is incomplete.

4. A credit institution that issues asset-referenced tokens, including significant asset-referenced tokens, shall not be subject to Articles 16, 18, 20, 21, 24, 35, 41 and 42.

5. The competent authority shall communicate to the ECB without delay the complete information received under paragraph 1 and, where the credit institution is established in a Member State whose official currency is not the euro or where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, also to the central bank of that Member State.

The ECB and, where applicable, the central bank of the Member State as referred to in the first subparagraph shall, within 20 working days of receipt of the complete information, issue an opinion on that information and transmit that opinion to the competent authority.

The competent authority shall require the credit institution not to offer to the public or seek the admission to trading of the asset-referenced token in cases where the ECB or, where applicable, the central bank of the Member State as referred to in first subparagraph, gives a negative opinion on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty.

6. The competent authority shall communicate to ESMA the information specified in Article 109(3) after verifying the completeness of the information received under paragraph 1 of this Article.

ESMA shall make such information available in the register, under Article 109(3), by the starting date of the offer to the public or admission to trading.

7. The relevant competent authority shall, within two working days of withdrawing authorisation, communicate to ESMA the withdrawal of authorisation of a credit institution that issues asset-referenced tokens. ESMA shall make the information on such withdrawal available in the register, under Article 109(3), without undue delay.

8. EBA, in close cooperation with ESMA and the ECB, shall develop draft regulatory technical standards to further specify the procedure for the approval of a crypto-asset white paper referred to in paragraph 1, point (a).

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 18

Application for authorisation

1. Legal persons or other undertakings that intend to offer to the public or seek the admission to trading of asset-referenced tokens shall submit their application for an authorisation referred to in Article 16 to the competent authority of their home Member State.
2. The application referred to in paragraph 1 shall contain all of the following information:
 - (a) the address of the applicant issuer;
 - (b) the legal entity identifier of the applicant issuer;
 - (c) the articles of association of the applicant issuer, where applicable;
 - (d) a programme of operations, setting out the business model that the applicant issuer intends to follow;
 - (e) a legal opinion that the asset-referenced token does not qualify as either of the following:
 - (i) a crypto-asset excluded from the scope of this Regulation pursuant to Article 2(4); or
 - (ii) an e-money token;
 - (f) a detailed description of the applicant issuer's governance arrangements as referred to in Article 34(1);
 - (g) where cooperation arrangements with specific crypto-asset service providers exist, a description of their internal control mechanisms and procedures to ensure compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849;
 - (h) the identity of the members of the management body of the applicant issuer;
 - (i) proof that the persons referred to in point (h) are of sufficiently good repute and possess the appropriate knowledge, skills and experience to manage the applicant issuer;
 - (j) proof that any shareholder or member, whether direct or indirect, that has a qualifying holding in the applicant issuer is of sufficiently good repute;
 - (k) a crypto-asset white paper as referred to in Article 19;
 - (l) the policies and procedures referred to in Article 34(5), first subparagraph;
 - (m) a description of the contractual arrangements with the third-party entities as referred to in Article 34(5), second subparagraph;
 - (n) a description of the applicant issuer's business continuity policy referred to in Article 34(9);
 - (o) a description of the internal control mechanisms and risk management procedures referred to in Article 34(10);
 - (p) a description of the systems and procedures in place to safeguard the availability, authenticity, integrity and confidentiality of data as referred to in Article 34(11);
 - (q) a description of the applicant issuer's complaints-handling procedures as referred to in Article 31;

(r) where applicable, a list of host Member States where the applicant issuer intends to offer the asset-referenced token to the public or intends to seek admission to trading of the asset-referenced token.

3. Issuers that have already been authorised in respect of one asset-referenced token shall not be required to submit, for the purposes of authorisation in respect of another asset-referenced token, any information that was previously submitted by them to the competent authority where such information would be identical. When submitting the information listed in paragraph 2, the issuer shall expressly confirm that any information not resubmitted is still up-to-date.

4. The competent authority shall promptly, and in any event within two working days of receipt of an application pursuant to paragraph 1, acknowledge receipt thereof in writing to the applicant issuer.

5. For the purposes of paragraph 2, points (i) and (j), the applicant issuer of the asset-referenced token shall provide proof of all of the following:

(a) for all members of the management body, the absence of a criminal record in respect of convictions or the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability;

(b) that the members of the management body of the applicant issuer of the asset-referenced token collectively possess the appropriate knowledge, skills and experience to manage the issuer of the asset-referenced token and that those persons are required to commit sufficient time to perform their duties;

(c) for all shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant issuer, the absence of a criminal record in respect of convictions and the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability.

6. EBA, in close cooperation with ESMA and the ECB, shall develop draft regulatory technical standards to further specify the information referred to in paragraph 2.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

7. EBA, in close cooperation with ESMA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the information to be included in the application in order to ensure uniformity across the Union.

EBA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Article 19

Content and form of the crypto-asset white paper for asset-referenced tokens

1. A crypto-asset white paper for an asset-referenced token shall contain all of the following information, as further specified in Annex II:

- (a) information about the issuer of the asset-referenced token;
- (b) information about the asset-referenced token;
- (c) information about the offer to the public of the asset-referenced token or its admission to trading;
- (d) information on the rights and obligations attached to the asset-referenced token;
- (e) information on the underlying technology;
- (f) information on the risks;
- (g) information on the reserve of assets;
- (h) information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the asset-referenced token.

The crypto-asset white paper shall also include the identity of the person other than the issuer that offers to the public or seeks admission to trading pursuant to Article 16(1), second subparagraph, and the reason why that particular person offers that asset-referenced token or seeks its admission to trading. In cases where the crypto-asset white paper is not drawn up by the issuer, the crypto-asset white paper shall also include the identity of the person that drew up the crypto-asset white paper and the reason why that particular person drew it up.

2. All information listed in paragraph 1 shall be fair, clear and not misleading. The crypto-asset white paper shall not contain material omissions and shall be presented in a concise and comprehensible form.

3. The crypto-asset white paper shall not contain any assertions as regards the future value of the crypto-assets, other than the statement referred to in paragraph 4.

4. The crypto-asset white paper shall contain a clear and unambiguous statement that:

- (a) the asset-referenced token may lose its value in part or in full;
- (b) the asset-referenced token may not always be transferable;
- (c) the asset-referenced token may not be liquid;
- (d) the asset-referenced token is not covered by the investor compensation schemes under Directive 97/9/EC;
- (e) the asset-referenced token is not covered by the deposit guarantee schemes under Directive 2014/49/EU.

5. The crypto-asset white paper shall contain a statement from the management body of the issuer of the asset-referenced token. That statement shall confirm that the crypto-asset white paper complies with this Title and that, to the best of the knowledge of the management body, the information presented in the crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.

6. The crypto-asset white paper shall contain a summary, inserted after the statement referred to in paragraph 5, which shall in brief and non-technical language provide key information about the offer to the public of the asset-referenced token or the intended admission to trading of the asset-referenced token. The summary shall be easily understandable and presented and laid out in a clear and comprehensive format, using characters of readable size. The summary of the crypto-asset white paper shall provide appropriate information about the characteristics of the asset-referenced token concerned in order to help prospective holders of that asset-referenced token to make an informed decision.

The summary shall contain a warning that:

- (a) it should be read as an introduction to the crypto-asset white paper;
- (b) the prospective holder should base any decision to purchase the asset-referenced token on the content of the crypto-asset white paper as a whole and not on the summary alone;
- (c) the offer to the public of the asset-referenced token does not constitute an offer or solicitation to purchase financial instruments and that any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law;
- (d) the crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 or any other offer document pursuant to Union or national law.

The summary shall state that the holders of asset-referenced tokens have a right of redemption at any time, and the conditions for such redemption.

7. The crypto-asset white paper shall contain the date of its notification and a table of contents.

8. The crypto-asset white paper shall be drawn up in an official language of the home Member State, or in a language customary in the sphere of international finance.

Where the asset-referenced token is also offered in a Member State other than the issuer's home Member State, the crypto-asset white paper shall also be drawn up in an official language of the host Member State, or in a language customary in the sphere of international finance.

9. The crypto-asset white paper shall be made available in a machine-readable format.

10. ESMA, in cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, formats and templates for the purposes of paragraph 9.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

11. ESMA, in cooperation with EBA, shall develop draft regulatory technical standards on the content, methodologies and presentation of information referred to in paragraph 1, first subparagraph, point (h), in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

When developing the draft regulatory technical standards referred to in the first subparagraph, ESMA shall consider the various types of consensus mechanisms used to validate transactions in crypto-assets, their incentive structures and the use of energy, renewable energy and natural resources, the production of waste

and greenhouse gas emissions. ESMA shall update those regulatory technical standards in the light of regulatory and technological developments.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 20

Assessment of the application for authorisation

1. Competent authorities receiving an application for authorisation as referred to in Article 18 shall, within 25 working days of receipt of such application, assess whether that application, including the crypto-asset white paper referred to in Article 19, comprises all of the required information. They shall immediately notify the applicant issuer whether the application, including the crypto-asset white paper, is missing required information. Where the application, including the crypto-asset white paper, is not complete, competent authorities shall set a deadline by which the applicant issuer is to provide any missing information.

2. Competent authorities shall, within 60 working days of receipt of a complete application, assess whether the applicant issuer complies with the requirements of this Title and take a fully reasoned draft decision granting or refusing authorisation. Within those 60 working days, competent authorities may request from the applicant issuer any information on the application, including on the crypto-asset white paper referred in Article 19.

During the assessment process, competent authorities may cooperate with competent authorities for anti-money laundering and counter-terrorist financing, financial intelligence units or other public bodies.

3. The assessment period under paragraphs 1 and 2 shall be suspended for the period between the date of request for missing information by the competent authorities and the receipt by them of a response thereto from the applicant issuer. The suspension shall not exceed 20 working days. Any further requests by the competent authorities for completion or clarification of the information shall be at their discretion but shall not result in a suspension of the assessment period under paragraphs 1 and 2.

4. Competent authorities shall, after the period of 60 working days referred to in paragraph 2, transmit their draft decision and the application to EBA, ESMA and the ECB. Where the applicant issuer is established in a Member State whose official currency is not the euro, or where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, the competent authorities shall transmit their draft decision and the application also to the central bank of that Member State.

5. EBA and ESMA shall, at the request of the competent authority, and within 20 working days of receipt of the draft decision and the application, issue an opinion as regards their evaluation of the legal opinion referred to in Article 18(2), point (e), and transmit their respective opinions to the competent authority concerned.

The ECB or, where applicable, the central bank referred to in paragraph 4 shall, within 20 working days of receipt of the draft decision and the application, issue an opinion as regards its evaluation of the risks that issuing that asset-referenced token might pose to financial stability, the smooth operation of payment systems, monetary policy transmission and monetary sovereignty, and transmit its opinion to the competent authority concerned.

Without prejudice to Article 21(4), the opinions referred to in the first and second subparagraphs of this paragraph shall be non-binding.

The competent authority shall, however, duly consider the opinions referred in the first and second subparagraphs of this paragraph.

Article 21

Grant or refusal of the authorisation

1. Competent authorities shall, within 25 working days of receipt of the opinions referred to in Article 20(5), take a fully reasoned decision granting or refusing authorisation to the applicant issuer and, within five working days of taking that decision, notify it to the applicant issuer. Where an applicant issuer is authorised, its crypto-asset white paper shall be deemed to be approved.
 2. Competent authorities shall refuse authorisation where there are objective and demonstrable grounds that:
 - (a) the management body of the applicant issuer might pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market;
 - (b) members of the management body do not meet the criteria set out in Article 34(2);
 - (c) shareholders and members, whether direct or indirect, that have qualifying holdings do not meet the criteria of sufficiently good repute set out in Article 34(4);
 - (d) the applicant issuer fails to meet or is likely to fail to meet any of the requirements of this Title;
 - (e) the applicant issuer's business model might pose a serious threat to market integrity, financial stability, the smooth operation of payment systems, or exposes the issuer or the sector to serious risks of money laundering and terrorist financing.
 3. EBA and ESMA shall, by 30 June 2024, jointly issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 and Article 16 of Regulation (EU) No 1095/2010, respectively, on the assessment of the suitability of the members of the management body of issuers of asset-referenced tokens and of the shareholders and members, whether direct or indirect, that have qualifying holdings in issuers of asset-referenced tokens.
 4. Competent authorities shall also refuse authorisation if the ECB or, where applicable, the central bank gives a negative opinion under Article 20(5) on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission, or monetary sovereignty.
 5. Competent authorities shall, within two working days of granting authorisation, communicate to the single point of contact of the host Member States, to ESMA, to EBA, to the ECB and, where applicable, to the central bank referred to in Article 20(4), the information specified in Article 109(3).
- ESMA shall make such information available in the register, under Article 109(3), by the starting date of the offer to the public or admission to trading.
6. Competent authorities shall inform EBA, ESMA, the ECB and, where applicable, the central bank referred to in Article 20(4), of all requests for authorisations refused, and provide the underlying reasoning for the decision and, where applicable, an explanation for any deviation from the opinions referred to in Article 20(5).

Article 22

Reporting on asset-referenced tokens

1. For each asset-referenced token with an issue value that is higher than EUR 100 000 000, the issuer shall report on a quarterly basis to the competent authority the following information:

- (a) the number of holders;
- (b) the value of the asset-referenced token issued and the size of the reserve of assets;
- (c) the average number and average aggregate value of transactions per day during the relevant quarter;
- (d) an estimate of the average number and average aggregate value of transactions per day during the relevant quarter that are associated to its uses as a means of exchange within a single currency area.

For the purposes of points (c) and (d) of the first subparagraph, 'transaction' shall mean any change of the natural or legal person entitled to the asset-referenced token as a result of the transfer of the asset-referenced token from one distributed ledger address or account to another.

Transactions that are associated with the exchange for funds or other crypto-assets with the issuer or with a crypto-asset service provider shall not be considered associated to uses of the asset-referenced token as a means of exchange, unless there is evidence that the asset-referenced token is used for the settlement of transactions in other crypto-assets.

2. The competent authority may require issuers of asset-referenced tokens to comply with the reporting obligation referred to in paragraph 1 in respect of asset-referenced tokens issued with a value of less than EUR 100 000 000.

3. Crypto-asset service providers that provide services related to asset-referenced tokens shall provide the issuer of the asset-referenced token with the information necessary to prepare the report referred to in paragraph 1, including by reporting transactions outside the distributed ledger.

4. The competent authority shall share the information received with the ECB and, where applicable, the central bank referred to in Article 20(4) and the competent authorities of host Member States.

5. The ECB and, where applicable, the central bank referred to in Article 20(4) may provide to the competent authority their own estimates of the quarterly average number and average aggregate value of transactions per day that are associated to uses of the asset-referenced token as a means of exchange within a single currency area.

6. EBA, in close cooperation with the ECB, shall develop draft regulatory technical standards to specify the methodology to estimate the quarterly average number and average aggregate value of transactions per day that are associated to uses of the asset-referenced token as a means of exchange within a single currency area.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

7. EBA shall develop draft implementing technical standards to establish standard forms, formats and templates for the purposes of reporting referred to in paragraph 1 and the provision of the information referred to in paragraph 3.

EBA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Article 23

Restrictions on the issuance of asset-referenced tokens used widely as a means of exchange

1. Where, for an asset-referenced token, the estimated quarterly average number and average aggregate value of transactions per day associated to its uses as a means of exchange within a single currency area is higher than 1 million transactions and EUR 200 000 000, respectively, the issuer shall:
 - (a) stop issuing that asset-referenced token; and
 - (b) within 40 working days of reaching that threshold, submit a plan to the competent authority to ensure that the estimated quarterly average number and average aggregate value of those transactions per day is kept below 1 million transactions and EUR 200 000 000 respectively.
2. The competent authority shall use the information provided by the issuer, its own estimates, or the estimates provided by the ECB or, where applicable, by the central bank referred to in Article 20(4), whichever is higher, in order to assess whether the threshold referred to in paragraph 1 is reached.
3. Where several issuers issue the same asset-referenced token, the criteria referred in paragraph 1 shall be assessed by the competent authority after aggregating the data from all issuers.
4. The issuer shall submit the plan referred to in paragraph 1, point (b), for approval to the competent authority. Where necessary, the competent authority shall require modifications, such as imposing a minimum denomination amount, in order to ensure a timely decrease of the use as a means of exchange of the asset-referenced token.
5. The competent authority shall only allow the issuer to issue the asset-referenced token again when it has evidence that the estimated quarterly average number and average aggregated value of transactions per day associated to its uses as a means of exchange within a single currency area is lower than 1 million transactions and EUR 200 000 000 respectively.

Article 24

Withdrawal of the authorisation

1. Competent authorities shall withdraw the authorisation of an issuer of an asset-referenced token in any of the following situations:

- (a) the issuer has ceased to engage in business for six consecutive months, or has not used its authorisation for 12 consecutive months;
- (b) the issuer has obtained its authorisation by irregular means, such as by making false statements in the application for authorisation referred to in Article 18 or in any crypto-asset white paper modified in accordance with Article 25;
- (c) the issuer no longer meets the conditions under which the authorisation was granted;
- (d) the issuer has seriously infringed the provisions of this Title;
- (e) the issuer has been subject to a redemption plan;
- (f) the issuer has expressly renounced its authorisation or has decided to cease operations;
- (g) the issuer's activity poses a serious threat to market integrity, financial stability, the smooth operation of payment systems or exposes the issuer or the sector to serious risks of money laundering and terrorist financing.

The issuer of the asset-referenced token shall notify its competent authority of any of the situations referred to in the first subparagraph, points (e) and (f).

2. Competent authorities shall also withdraw the authorisation of an issuer of an asset-referenced token when the ECB or, where applicable, the central bank referred to in Article 20(4), issues an opinion that the asset-referenced token poses a serious threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty.

3. Competent authorities shall limit the amount of an asset-referenced token to be issued or impose a minimum denomination amount in respect of the asset-referenced token when the ECB or, where applicable, the central bank referred to in Article 20(4), issues an opinion that the asset-referenced token poses a threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty, and specify the applicable limit or minimum denomination amount.

4. The relevant competent authorities shall notify the competent authority of an issuer of an asset-referenced token, without delay, of the following situations:

- (a) a third-party entity as referred to in Article 34(5), first subparagraph, point (h), of this Regulation has lost its authorisation as a credit institution as referred to in Article 8 of Directive 2013/36/EU, as a crypto-asset service provider as referred to in Article 59 of this Regulation, as a payment institution, or as an electronic money institution;
- (b) the members of the issuer's management body or shareholders or members, whether direct or indirect, that have qualifying holdings in the issuer have infringed the provisions of national law transposing Directive (EU) 2015/849.

5. Competent authorities shall withdraw the authorisation of an issuer of an asset-referenced token where they are of the opinion that the situations referred to in paragraph 4 of this Article affect the good reputation of the

members of the management body of that issuer or the good repute of any shareholders or members, whether direct or indirect, that have qualifying holdings in the issuer, or if there is an indication of a failure of the governance arrangements or internal control mechanisms as referred to in Article 34.

When the authorisation is withdrawn, the issuer of the asset-referenced token shall implement the procedure under Article 47.

6. Competent authorities shall, within two working days of withdrawing authorisation, communicate to ESMA the withdrawal of the authorisation of the issuer of the asset-referenced token. ESMA shall make the information on such withdrawal available in the register referred to in Article 109 without undue delay.

Article 25

Modification of published crypto-asset white papers for asset-referenced tokens

1. Issuers of asset-referenced tokens shall notify the competent authority of their home Member State of any intended change of their business model likely to have a significant influence on the purchase decision of any holders or prospective holders of asset-referenced tokens, which occurs after the authorisation pursuant to Article 21 or after the approval of the crypto-asset white paper pursuant to Article 17, as well as in the context of Article 23. Such changes include, amongst others, any material modifications to:

- (a) the governance arrangements, including reporting lines to the management body and risk management framework;
- (b) the reserve assets and the custody of the reserve assets;
- (c) the rights granted to the holders of asset-referenced tokens;
- (d) the mechanism through which an asset-referenced token is issued and redeemed;
- (e) the protocols for validating the transactions in asset-referenced tokens;
- (f) the functioning of issuers' proprietary distributed ledger technology, where the asset-referenced tokens are issued, transferred and stored using such a distributed ledger technology;
- (g) the mechanisms to ensure the liquidity of asset-referenced tokens, including the liquidity management policy and procedures for issuers of significant asset-referenced tokens referred to in Article 45;
- (h) the arrangements with third-party entities, including for managing the reserve assets and the investment of the reserve, the custody of reserve assets, and, where applicable, the distribution of the asset-referenced tokens to the public;
- (i) the complaints-handling procedures;
- (j) the money laundering and terrorist financing risk assessment and general policies and procedures related thereto.

Issuers of asset-referenced tokens shall notify the competent authority of their home Member State at least 30 working days before the intended changes take effect.

2. Where any intended change as referred to in paragraph 1 has been notified to the competent authority, the issuer of an asset-referenced token shall draw up a draft modified crypto-asset white paper and shall ensure that the order of the information appearing therein is consistent with that of the original crypto-asset white paper.

The issuer of the asset-referenced token shall notify the draft modified crypto-asset white paper to the competent authority of the home Member State.

The competent authority shall electronically acknowledge receipt of the draft modified crypto-asset white paper as soon as possible, and at the latest five working days from receipt thereof.

The competent authority shall grant approval of, or refuse to approve, the draft modified crypto-asset white paper within 30 working days of acknowledgement of receipt thereof. During the examination of the draft modified crypto-asset white paper, the competent authority may request any additional information, explanations or justifications concerning the draft modified crypto-asset white paper. When the competent authority makes such request, the time limit of 30 working days shall commence only when the competent authority has received the additional information requested.

3. Where the competent authority considers that the modifications to a crypto-asset white paper are potentially relevant for the smooth operation of payment systems, monetary policy transmission and monetary sovereignty, it shall consult the ECB and, where applicable, the central bank referred to in Article 20(4). The competent authority may also consult EBA and ESMA in such cases.

The ECB or the relevant central bank and, where applicable, EBA and ESMA, shall provide an opinion within 20 working days of receipt of the consultation referred to in the first subparagraph.

4. Where the competent authority approves the modified crypto-asset white paper, it may require the issuer of the asset-referenced token:

(a) to put in place mechanisms to ensure the protection of holders of the asset-referenced token, when a potential modification of the issuer's operations can have a material effect on the value, stability, or risks of the asset-referenced token or the reserve assets;

(b) to take any appropriate corrective measures to address concerns related to market integrity, financial stability or the smooth operation of payment systems.

The competent authority shall require the issuer of the asset-referenced token to take any appropriate corrective measures to address concerns related to the smooth operation of payment systems, monetary policy transmission, or monetary sovereignty, if such corrective measures are proposed by the ECB or, where applicable, the central bank referred to in Article 20(4) in the consultations referred to in paragraph 3 of this Article.

Where the ECB or the central bank referred to in Article 20(4) has proposed different measures than the ones required by the competent authority, the measures proposed shall be combined or, if not possible, the more stringent measure shall be required.

5. The competent authority shall communicate the modified crypto-asset white paper to ESMA, the single points of contact of the host Member States, EBA, the ECB and, where applicable, the central bank of the Member State concerned within two working days of granting approval.

ESMA shall make the modified crypto-asset white paper available in the register referred to in Article 109 without undue delay.

Article 26

Liability of issuers of asset-referenced tokens for the information given in a crypto-asset white paper

1. Where an issuer has infringed Article 19 by providing in its crypto-asset white paper or in a modified crypto-asset white paper information that is not complete, fair or clear, or that is misleading, that issuer and the members of its administrative, management or supervisory body shall be liable to a holder of such asset-referenced token for any loss incurred due to that infringement.
2. Any contractual exclusion or limitation of civil liability as referred to in paragraph 1 shall be deprived of legal effect.
3. It shall be the responsibility of the holder of the asset-referenced token to present evidence indicating that the issuer of that asset-referenced token has infringed Article 19 by providing in its crypto-asset white paper or in a modified crypto-asset white paper information that is not complete, fair or clear, or that is misleading and that reliance on such information had an impact on the holder's decision to purchase, sell or exchange that asset-referenced token.
4. The issuer and the members of its administrative, management or supervisory body shall not be liable for loss suffered as a result of reliance on the information provided in a summary pursuant to Article 19, including any translation thereof, except where the summary:
 - (a) is misleading, inaccurate or inconsistent when read together with the other parts of the crypto-asset white paper; or
 - (b) does not provide, when read together with the other parts of the crypto-asset white paper, key information in order to aid prospective holders when considering whether to purchase the asset-referenced token.
5. This Article is without prejudice to any other civil liability pursuant to national law.

CHAPTER 2

Obligations of issuers of asset-referenced tokens

Article 27

Obligation to act honestly, fairly and professionally in the best interest of the holders of asset-referenced tokens

1. Issuers of asset-referenced tokens shall act honestly, fairly and professionally and shall communicate with the holders and prospective holders of asset-referenced tokens in a fair, clear and not misleading manner.
2. Issuers of asset-referenced tokens shall act in the best interests of the holders of such tokens and shall treat them equally, unless any preferential treatment is disclosed in the crypto-asset white paper and, where applicable, the marketing communications.

Article 28

Publication of the crypto-asset white paper

An issuer of an asset-referenced token shall publish on its website the approved crypto-asset white paper referred to in Article 17(1) or Article 21(1) and, where applicable, the modified crypto-asset white paper referred to in Article 25. The approved crypto-asset white paper shall be publicly accessible by the starting date of the offer to the public of the asset-referenced token or the admission to trading of that token. The approved crypto-asset white paper and, where applicable, the modified crypto-asset white paper shall remain available on the issuer's website for as long as the asset-referenced token is held by the public.

Article 29

Marketing communications

1. Any marketing communications relating to an offer to the public of an asset-referenced token, or to the admission to trading of such asset-referenced token, shall comply with all of the following requirements:
 - (a) the marketing communications are clearly identifiable as such;
 - (b) the information in the marketing communications is fair, clear and not misleading;
 - (c) the information in the marketing communications is consistent with the information in the crypto-asset white paper;
 - (d) the marketing communications clearly state that a crypto-asset white paper has been published and clearly indicate the address of the website of the issuer of the asset-referenced token, as well as a telephone number and an email address to contact the issuer.
2. Marketing communications shall contain a clear and unambiguous statement that the holders of the asset-referenced token have a right of redemption against the issuer at any time.
3. Marketing communications and any modifications thereto shall be published on the issuer's website.
4. Competent authorities shall not require prior approval of marketing communications before their publication.
5. Marketing communications shall be notified to competent authorities upon request.
6. No marketing communications shall be disseminated prior to the publication of the crypto-asset white paper. Such restriction does not affect the ability of the issuer of the asset-referenced token to conduct market soundings.

Article 30

Ongoing information to holders of asset-referenced tokens

1. Issuers of asset-referenced tokens shall in a clear, accurate and transparent manner disclose, in a publicly and easily accessible place on their website, the amount of asset-referenced tokens in circulation, and the value and composition of the reserve of assets referred to in Article 36. Such information shall be updated at least monthly.
2. Issuers of asset-referenced tokens shall publish as soon as possible in a publicly and easily accessible place on their website a brief, clear, accurate and transparent summary of the audit report, as well as the full and unredacted audit report, in relation to the reserve of assets referred to in Article 36.
3. Without prejudice to Article 88, issuers of asset-referenced tokens shall as soon as possible and in a clear, accurate and transparent manner disclose, in a publicly and easily accessible place, on their website any event that has or is likely to have a significant effect on the value of the asset-referenced tokens or on the reserve of assets referred to in Article 36.

Article 31

Complaints-handling procedures

1. Issuers of asset-referenced tokens shall establish and maintain effective and transparent procedures for the prompt, fair and consistent handling of complaints received from holders of asset-referenced tokens and other interested parties, including consumer associations that represent holders of asset-referenced tokens, and shall publish descriptions of those procedures. Where the asset-referenced tokens are distributed, totally or partially, by third-party entities as referred to in Article 34(5), first subparagraph, point (h), issuers of the asset-referenced tokens shall establish procedures to also facilitate the handling of such complaints between holders of the asset-referenced tokens and such third-party entities.
2. Holders of asset-referenced tokens shall be able to file complaints free of charge with the issuers of their asset-referenced tokens or, where applicable, with the third-party entities as referred to in paragraph 1.
3. Issuers of asset-referenced tokens and, where applicable, the third-party entities as referred to in paragraph 1, shall develop and make available to holders of asset-referenced tokens a template for filing complaints and shall keep a record of all complaints received and any measures taken in response thereto.
4. Issuers of asset-referenced tokens shall investigate all complaints in a timely and fair manner and communicate the outcome of such investigations to the holders of their asset-referenced tokens within a reasonable period.
5. EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards to further specify the requirements, templates and procedures for handling complaints.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 32

Identification, prevention, management and disclosure of conflicts of interest

1. Issuers of asset-referenced tokens shall implement and maintain effective policies and procedures to identify, prevent, manage and disclose conflicts of interest between themselves and:
 - (a) their shareholders or members;
 - (b) any shareholder or member, whether direct or indirect, that has a qualifying holding in the issuers;
 - (c) the members of their management body;
 - (d) their employees;
 - (e) the holders of asset-referenced tokens; or
 - (f) any third party providing one of the functions as referred in Article 34(5), first subparagraph, point (h).
2. Issuers of asset-referenced tokens shall, in particular, take all appropriate steps to identify, prevent, manage and disclose conflicts of interest arising from the management and investment of the reserve of assets referred to in Article 36.
3. Issuers of asset-referenced tokens shall, in a prominent place on their website, disclose to the holders of their asset-referenced tokens the general nature and sources of conflicts of interest referred to in paragraph 1 and the steps taken to mitigate them.
4. The disclosure referred to in paragraph 3 shall be sufficiently precise to enable the prospective holders of their asset-referenced tokens to take an informed purchasing decision about the asset-referenced tokens.
5. EBA shall develop draft regulatory technical standards to further specify:
 - (a) the requirements for the policies and procedures referred to in paragraph 1;
 - (b) the details and methodology for the content of the disclosure referred to in paragraph 3.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 33

Notification of changes to management body

Issuers of asset-referenced tokens shall notify immediately their competent authority of any changes to their management body, and shall provide their competent authority with all of the necessary information to assess compliance with Article 34(2).

Article 34

Governance arrangements

1. Issuers of asset-referenced tokens shall have robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which they are or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures.
2. Members of the management body of issuers of asset-referenced tokens shall be of sufficiently good repute and possess the appropriate knowledge, skills and experience, both individually and collectively, to perform their duties. In particular, they shall not have been convicted of offences relating to money laundering or terrorist financing or of any other offences that would affect their good repute. They shall also demonstrate that they are capable of committing sufficient time to effectively perform their duties.
3. The management body of issuers of asset-referenced tokens shall assess and periodically review the effectiveness of the policy arrangements and procedures put in place to comply with Chapters 2, 3, 5 and 6 of this Title and take appropriate measures to address any deficiencies in that respect.
4. Shareholders or members, whether direct or indirect, that have qualifying holdings in issuers of asset-referenced tokens shall be of sufficiently good repute and, in particular, shall not have been convicted of offences relating to money laundering or terrorist financing or of any other offences that would affect their good repute.
5. Issuers of asset-referenced tokens shall adopt policies and procedures that are sufficiently effective to ensure compliance with this Regulation. Issuers of asset-referenced tokens shall establish, maintain and implement, in particular, policies and procedures on:
 - (a) the reserve of assets referred to in Article 36;
 - (b) the custody of the reserve assets, including the segregation of assets, as specified in Article 37;
 - (c) the rights granted to the holders of asset-referenced tokens, as specified in Article 39;
 - (d) the mechanism through which asset-referenced tokens are issued and redeemed;
 - (e) the protocols for validating transactions in asset-referenced tokens;
 - (f) the functioning of the issuers' proprietary distributed ledger technology, where the asset-referenced tokens are issued, transferred and stored using such distributed ledger technology or similar technology that is operated by the issuers or a third party acting on their behalf;
 - (g) the mechanisms to ensure the liquidity of asset-referenced tokens, including the liquidity management policy and procedures for issuers of significant asset-referenced tokens referred to in Article 45;
 - (h) arrangements with third-party entities for operating the reserve of assets, and for the investment of the reserve assets, the custody of the reserve assets and, where applicable, the distribution of the asset-referenced tokens to the public;
 - (i) the written consent of the issuers of asset-referenced tokens given to other persons that might offer or seek the admission to trading of the asset-referenced tokens;
 - (j) complaints-handling, as specified in Article 31;
 - (k) conflicts of interest, as specified in Article 32.

Where issuers of asset-referenced tokens enter into arrangements as referred to in the first subparagraph, point (h), those arrangements shall be set out in a contract with the third-party entities. Those contractual arrangements shall set out the roles, responsibilities, rights and obligations both of the issuers of asset-referenced tokens and of the third-party entities. Any contractual arrangement with cross-jurisdictional implications shall provide for an unambiguous choice of applicable law.

6. Unless they have initiated a redemption plan referred to in Article 47, issuers of asset-referenced tokens shall employ appropriate and proportionate systems, resources and procedures to ensure the continued and regular performance of their services and activities. To that end, issuers of asset-referenced tokens shall maintain all of their systems and security access protocols in conformity with the appropriate Union standards.

7. If the issuer of an asset-referenced token decides to discontinue the provision of its services and activities, including by discontinuing the issue of that asset-referenced token, it shall submit a plan to the competent authority for approval of such discontinuation.

8. Issuers of asset-referenced tokens shall identify sources of operational risk and minimise those risks through the development of appropriate systems, controls and procedures.

9. Issuers of asset-referenced tokens shall establish a business continuity policy and plans to ensure, in the case of an interruption of their ICT systems and procedures, the preservation of essential data and functions and the maintenance of their activities or, where that is not possible, the timely recovery of such data and functions and the timely resumption of their activities.

10. Issuers of asset-referenced tokens shall have in place internal control mechanisms and effective procedures for risk management, including effective control and safeguard arrangements for managing ICT systems as required by Regulation (EU) 2022/2554 of the European Parliament and of the Council³⁷. The procedures shall provide for a comprehensive assessment relating to the reliance on third-party entities as referred to in paragraph 5, first subparagraph, point (h), of this Article. Issuers of asset-referenced tokens shall monitor and evaluate on a regular basis the adequacy and effectiveness of the internal control mechanisms and procedures for risk assessment and take appropriate measures to address any deficiencies in that respect.

11. Issuers of asset-referenced tokens shall have systems and procedures in place that are adequate to safeguard the availability, authenticity, integrity and confidentiality of data as required by Regulation (EU) 2022/2554 and in line with Regulation (EU) 2016/679. Those systems shall record and safeguard relevant data and information collected and produced in the course of the issuers' activities.

12. Issuers of asset-referenced tokens shall ensure that they are regularly audited by independent auditors. The results of those audits shall be communicated to the management body of the issuer concerned and made available to the competent authority.

13. By 30 June 2024, EBA, in close cooperation with ESMA and the ECB, shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 specifying the minimum content of the governance arrangements on:

- (a) the monitoring tools for the risks referred to in paragraph 8;
- (b) the business continuity plan referred to in paragraph 9;

³⁷ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1).

- (c) the internal control mechanism referred to in paragraph 10;
- (d) the audits referred to in paragraph 12, including the minimum documentation to be used in the audit.

When issuing the guidelines referred to in the first subparagraph, EBA shall take into account the provisions on governance requirements in other Union legislative acts on financial services, including Directive 2014/65/EU.

Article 35

Own funds requirements

1. Issuers of asset-referenced tokens 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.

For the purposes of point (b) of the first subparagraph, the average amount of the reserve of assets shall mean the average amount of the reserve assets at the end of each calendar day, calculated over the preceding six months.

Where an issuer offers more than one asset-referenced token, the amount referred to in point (b) of the first subparagraph shall be the sum of the average amount of the reserve assets backing each asset-referenced token.

The amount referred to in point (c) of the first subparagraph shall be reviewed annually and calculated in accordance with Article 67(3).

2. The own funds referred to in paragraph 1 of this Article shall consist of the Common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full pursuant to Article 36 of that Regulation, without the application of the threshold exemptions referred to in Article 46(4) and Article 48 of that Regulation.

3. The competent authority of the home Member State may require an issuer of an asset-referenced token to hold an amount of own funds which is up to 20 % higher than the amount resulting from the application of paragraph 1, first subparagraph, point (b), where an assessment of any of the following indicates a higher degree of risk:

- (a) the evaluation of the risk-management processes and internal control mechanisms of the issuer of the asset-referenced token as referred to in Article 34(1), (8) and (10);
- (b) the quality and volatility of the reserve of assets referred to in Article 36;
- (c) the types of rights granted by the issuer of the asset-referenced token to holders of the asset-referenced token in accordance with Article 39;
- (d) where the reserve of assets includes investments, the risks posed by the investment policy on the reserve of assets;
- (e) the aggregate value and number of transactions settled in the asset-referenced token;
- (f) the importance of the markets on which the asset-referenced token is offered and marketed;
- (g) where applicable, the market capitalisation of the asset-referenced token.

4. The competent authority of the home Member State may require an issuer of an asset-referenced token that is not significant to comply with any requirement set out in Article 45, where necessary to address the higher degree of risks identified in accordance with paragraph 3 of this Article, or any other risks that Article 45 aims to address, such as liquidity risks.

5. Without prejudice to paragraph 3, issuers of asset-referenced tokens shall conduct, on a regular basis, stress testing that takes into account severe but plausible financial stress scenarios, such as interest rate shocks, and non-financial stress scenarios, such as operational risk. Based on the outcome of such stress testing, the competent authority of the home Member State shall require the issuer of the asset-referenced token to hold an amount of own funds that is between 20 % and 40 % higher than the amount resulting from the application of paragraph 1, first subparagraph, point (b), in certain circumstances having regard to the risk outlook and stress testing results.

6. EBA, in close cooperation with ESMA and the ECB, shall develop draft regulatory technical standards further specifying:

(a) the procedure and timeframe for an issuer of an asset-referenced token to adjust to higher own funds requirements as set out in paragraph 3;

(b) the criteria for requiring a higher amount of own funds as set out in paragraph 3;

(c) the minimum requirements for the design of stress testing programmes, taking into account the size, complexity and nature of the asset-referenced token, including but not limited to:

- (i) the types of stress testing and their main objectives and applications;
- (ii) the frequency of the different stress testing exercises;
- (iii) the internal governance arrangements;
- (iv) the relevant data infrastructure;
- (v) the methodology and the plausibility of assumptions;
- (vi) the application of the proportionality principle to all of the minimum requirements, whether quantitative or qualitative; and
- (vii) the minimum periodicity of the stress tests and the common reference parameters of the stress test scenarios.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

CHAPTER 3

Reserve of assets

Article 36

Obligation to have a reserve of assets, and composition and management of such reserve of assets

1. Issuers of asset-referenced tokens shall constitute and at all times maintain a reserve of assets.

The reserve of assets shall be composed and managed in such a way that:

- (a) the risks associated to the assets referenced by the asset-referenced tokens are covered; and
- (b) the liquidity risks associated to the permanent rights of redemption of the holders are addressed.

2. The reserve of assets shall be legally segregated from the issuers' estate, as well as from the reserve of assets of other asset-referenced tokens, in the interests of the holders of asset-referenced tokens in accordance with applicable law, so that creditors of the issuers have no recourse to the reserve of assets, in particular in the event of insolvency.

3. Issuers of asset-referenced tokens shall ensure that the reserve of assets is operationally segregated from their estate, as well as from the reserve of assets of other tokens.

4. EBA, in close cooperation with ESMA and the ECB, shall develop draft regulatory technical standards further specifying the liquidity requirements, taking into account the size, complexity and nature of the reserve of assets and of the asset-referenced token itself.

The regulatory technical standards shall establish in particular:

- (a) the relevant percentage of the reserve of assets according to daily maturities, including the percentage of reverse repurchase agreements that are able to be terminated by giving prior notice of one working day, or the percentage of cash that is able to be withdrawn by giving prior notice of one working day;
- (b) the relevant percentage of the reserve of assets according to weekly maturities, including the percentage of reverse repurchase agreements that are able to be terminated by giving prior notice of five working days, or the percentage of cash that is able to be withdrawn by giving prior notice of five working days;
- (c) other relevant maturities, and overall techniques for liquidity management;
- (d) the minimum amounts in each official currency referenced to be held as deposits in credit institutions, which cannot be lower than 30 % of the amount referenced in each official currency.

For the purposes of points (a), (b) and (c) of the second subparagraph, EBA shall take into account, amongst others, the relevant thresholds laid down in Article 52 of Directive 2009/65/EC.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

5. Issuers that offer two or more asset-referenced tokens to the public shall operate and maintain segregated pools of reserves of assets for each asset-referenced token. Each of those pools of reserves of assets shall be managed separately.

Where different issuers of asset-referenced tokens offer the same asset-referenced token to the public, those issuers shall operate and maintain only one reserve of assets for that asset-referenced token.

6. The management bodies of issuers of asset-referenced tokens shall ensure the effective and prudent management of the reserve of assets. The issuers shall ensure that the issuance and redemption of asset-referenced tokens is always matched by a corresponding increase or decrease in the reserve of assets.

7. The issuer of an asset-referenced token shall determine the aggregate value of the reserve of assets by using market prices. Its aggregate value shall be at least equal to the aggregate value of the claims against the issuer from the holders of the asset-referenced token in circulation.

8. Issuers of asset-referenced tokens shall have a clear and detailed policy describing the stabilisation mechanism of such tokens. That policy shall in particular:

- (a) list the assets referenced by the asset-referenced tokens and the composition of those assets;
- (b) describe the type of assets and the precise allocation of assets that are included in the reserve of assets;
- (c) contain a detailed assessment of the risks, including credit risk, market risk, concentration risk and liquidity risk resulting from the reserve of assets;
- (d) describe the procedure by which the asset-referenced tokens are issued and redeemed, and the procedure by which such issuance and redemption will result in a corresponding increase and decrease in the reserve of assets;
- (e) mention whether a part of the reserve of assets is invested as provided in Article 38;
- (f) where issuers of asset-referenced tokens invest a part of the reserve of assets as provided in Article 38, describe in detail the investment policy and contain an assessment of how that investment policy can affect the value of the reserve of assets;
- (g) describe the procedure to purchase asset-referenced tokens and to redeem such tokens against the reserve of assets, and list the persons or categories of persons who are entitled to do so.

9. Without prejudice to Article 34(12), issuers of asset-referenced tokens shall mandate an independent audit of the reserve of assets every six months, assessing compliance with the rules of this Chapter, as of the date of their authorisation pursuant to Article 21 or as of the date of approval of the crypto-asset white paper pursuant to Article 17.

10. The issuer shall notify the results of the audit referred to in paragraph 9 to the competent authority without delay, and at the latest within six weeks of the reference date of the valuation. The issuer shall publish the result of the audit within two weeks of the date of notification to the competent authority. The competent authority may instruct an issuer to delay the publication of the results of the audit in the event that:

- (a) the issuer has been required to implement a recovery arrangement or measures in accordance with Article 46(3);
- (b) the issuer has been required to implement a redemption plan in accordance with Article 47;
- (c) it is deemed necessary to protect the economic interests of holders of the asset-referenced token;
- (d) it is deemed necessary to avoid a significant adverse effect on the financial system of the home Member State or another Member State.

11. The valuation at market prices referred to in paragraph 7 of this Article shall be made by using mark-to-market, as defined in Article 2, point (8), of Regulation (EU) 2017/1131 of the European Parliament and of the Council³⁸ whenever possible.

When using mark-to-market valuation the reserve asset shall be valued at the more prudent side of the bid and offer unless the reserve asset can be closed out at mid-market. Only market data of good quality shall be used, and such data shall be assessed based on all of the following factors:

- (a) the number and quality of the counterparties;
- (b) the volume and turnover in the market of the reserve asset;
- (c) the size of the reserve of assets.

12. Where use of mark-to-market as referred to in paragraph 11 of this Article is not possible or the market data is not of sufficiently good quality, the reserve asset shall be valued conservatively by using mark-to-model, as defined in Article 2, point (9), of Regulation (EU) 2017/1131.

The model shall accurately estimate the intrinsic value of the reserve asset, based on all of the following up-to-date key factors:

- (a) the volume and turnover in the market of that reserve asset;
- (b) the size of the reserve of assets;
- (c) the market risk, interest rate risk and credit risk attached to the reserve asset.

When using mark-to-model, the amortised cost method, as defined in Article 2, point (10), of Regulation (EU) 2017/1131, shall not be used.

³⁸ Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8).

Article 37

Custody of reserve assets

1. Issuers of asset-referenced tokens shall establish, maintain and implement custody policies, procedures and contractual arrangements that ensure at all times that:
 - (a) the reserve assets are not encumbered nor pledged as a financial collateral arrangement as defined in Article 2(1), point (a), of Directive 2002/47/EC of the European Parliament and of the Council³⁹;
 - (b) the reserve assets are held in custody in accordance with paragraph 6 of this Article;
 - (c) the issuers of asset-referenced tokens have prompt access to the reserve assets to meet any requests for redemption from the holders of asset-referenced tokens;
 - (d) concentrations of the custodians of reserve assets are avoided;
 - (e) risk of concentration of reserve assets is avoided.
2. Issuers of asset-referenced tokens that issue two or more asset-referenced tokens in the Union shall have a custody policy in place for each pool of reserve of assets. Different issuers of asset-referenced tokens that have issued the same asset-referenced token shall operate and maintain a single custody policy.
3. The reserve assets shall be held in custody by no later than five working days after the date of issuance of the asset-referenced token by one or more of the following:
 - (a) a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients, where the reserve assets take the form of crypto-assets;
 - (b) a credit institution, for all types of reserve assets;
 - (c) an investment firm that provides the ancillary service of safekeeping and administration of financial instruments for the account of clients as referred to in Section B, point (1), of Annex I to Directive 2014/65/EU, where the reserve assets take the form of financial instruments.
4. Issuers of asset-referenced tokens shall exercise all due skill, care and diligence in the selection, appointment and review of crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets as referred to in paragraph 3. The custodian shall be a legal person different from the issuer.

Issuers of asset-referenced tokens shall ensure that the crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets as referred to in paragraph 3 have the necessary expertise and market reputation to act as custodians of such reserve assets, taking into account the accounting practices, safekeeping procedures and internal control mechanisms of those crypto-asset service providers, credit institutions and investment firms. The contractual arrangements between the issuers of asset-referenced tokens and the custodians shall ensure that the reserve assets held in custody are protected against claims of the custodians' creditors.

³⁹ Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

5. The custody policies and procedures referred to in paragraph 1 shall set out the selection criteria for the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets and the procedure for reviewing such appointment.

Issuers of asset-referenced tokens shall review the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets on a regular basis. For the purpose of that review, issuers of asset-referenced tokens shall evaluate their exposures to such custodians, taking into account the full scope of their relationship with them, and monitor the financial conditions of such custodians on an ongoing basis.

6. Custodians of the reserve assets as referred to in paragraph 4 shall ensure that the custody of those reserve assets is carried out in the following manner:

- (a) credit institutions shall hold in custody funds in an account opened in the credit institutions' books;
- (b) for financial instruments that can be held in custody, credit institutions or investment firms shall hold in custody all financial instruments that can be registered in a financial instruments account opened in the credit institutions' or investment firms' books and all financial instruments that can be physically delivered to such credit institutions or investment firms;
- (c) for crypto-assets that can be held in custody, the crypto-asset service providers shall hold in custody the crypto-assets included in the reserve assets or the means of access to such crypto-assets, where applicable, in the form of private cryptographic keys;
- (d) for other assets, the credit institutions shall verify the ownership of the issuers of the asset-referenced tokens and shall maintain a record of those reserve assets for which they are satisfied that the issuers of the asset-referenced tokens own those reserve assets.

For the purposes of point (a) of the first subparagraph, credit institutions shall ensure that funds are registered in the credit institutions' books on a segregated account in accordance with the provisions of national law transposing Article 16 of Commission Directive 2006/73/EC⁴⁰. That account shall be opened in the name of the issuer of the asset-referenced tokens for the purposes of managing the reserve assets of each asset-referenced token, so that the funds held in custody can be clearly identified as belonging to each reserve of assets.

For the purposes of point (b) of the first subparagraph, credit institutions and investment firms shall ensure that all financial instruments that can be registered in a financial instruments account opened in the credit institutions' books and investment firms' books are registered in the credit institutions' and investment firms' books on segregated accounts in accordance with the provisions of national law transposing Article 16 of Directive 2006/73/EC. The financial instruments account shall be opened in the name of the issuers of the asset-referenced tokens for the purposes of managing the reserve assets of each asset-referenced token, so that the financial instruments held in custody can be clearly identified as belonging to each reserve of assets.

For the purposes of point (c) of the first subparagraph, crypto-asset service providers shall open a register of positions in the name of the issuers of the asset-referenced tokens for the purposes of managing the reserve assets of each asset-referenced token, so that the crypto-assets held in custody can be clearly identified as belonging to each reserve of assets.

⁴⁰ Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 241, 2.9.2006, p. 26).

For the purposes of point (d) of the first subparagraph, the assessment whether issuers of asset-referenced tokens own the reserve assets shall be based on information or documents provided by the issuers of the asset-referenced tokens and, where available, on external evidence.

7. The appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets as referred to in paragraph 4 of this Article shall be evidenced by a contractual arrangement as referred to in Article 34(5), second subparagraph. Those contractual arrangements shall, amongst others, regulate the flow of information necessary to enable the issuers of the asset-referenced tokens and the crypto-asset service providers, credit institutions and investment firms to perform their functions as custodians.

8. The crypto-asset service providers, credit institutions and investment firms appointed as custodians in accordance with paragraph 4 shall act honestly, fairly, professionally, independently and in the interest of the issuers of the asset-referenced tokens and the holders of such tokens.

9. The crypto-asset service providers, credit institutions and investment firms appointed as custodians in accordance with paragraph 4 shall not carry out activities with regard to the issuers of the asset-referenced tokens that might create conflicts of interest between those issuers, the holders of the asset-referenced tokens and themselves unless all of the following conditions are met:

(a) the crypto-asset service providers, credit institutions or investment firms have functionally and hierarchically separated the performance of their custody tasks from their potentially conflicting tasks;

(b) the potential conflicts of interest have been properly identified, monitored, managed and disclosed by the issuers of the asset-referenced tokens to the holders of the asset-referenced tokens, in accordance with Article 32.

10. In the case of a loss of a financial instrument or a crypto-asset held in custody pursuant to paragraph 6, the crypto-asset service provider, credit institution or investment firm that lost that financial instrument or crypto-asset shall compensate, or make restitution, to the issuer of the asset-referenced token with a financial instrument or a crypto-asset of an identical type or the corresponding value without undue delay. The crypto-asset service provider, credit institution or investment firm concerned shall not be liable for compensation or restitution where it can prove that the loss has occurred as a result of an external event beyond its reasonable control, the consequences of which were unavoidable despite all reasonable efforts to the contrary.

Article 38

Investment of the reserve of assets

1. Issuers of asset-referenced tokens that invest a part of the reserve of assets shall only invest those assets in highly liquid financial instruments with minimal market risk, credit risk and concentration risk. The investments shall be capable of being liquidated rapidly with minimal adverse price effect.
2. Units in an undertaking for collective investment in transferable securities (UCITS) shall be deemed to be assets with minimal market risk, credit risk and concentration risk for the purposes of paragraph 1, where that UCITS invests solely in assets as further specified by EBA in accordance with paragraph 5 and where the issuer of the asset-referenced token ensures that the reserve of assets is invested in such a way that the concentration risk is minimised.
3. The financial instruments in which the reserve of assets is invested shall be held in custody in accordance with Article 37.
4. All profits or losses, including fluctuations in the value of the financial instruments referred to in paragraph 1, and any counterparty or operational risks that result from the investment of the reserve of assets shall be borne by the issuer of the asset-referenced token.
5. EBA, in cooperation with ESMA and the ECB, shall develop draft regulatory technical standards specifying the financial instruments that can be considered highly liquid and bearing minimal market risk, credit risk and concentration risk as referred to in paragraph 1. When specifying those financial instruments, EBA shall take into account:
 - (a) the various types of assets that can be referenced by an asset-referenced token;
 - (b) the correlation between the assets referenced by the asset-referenced token and the highly liquid financial instruments that the issuer might invest in;
 - (c) the liquidity coverage requirement as referred to in Article 412 of Regulation (EU) No 575/2013 and as further specified in Commission Delegated Regulation (EU) 2015/61⁴¹;
 - (d) constraints on concentration preventing the issuer from:
 - (i) investing more than a certain percentage of reserve assets in highly liquid financial instruments with minimal market risk, credit risk and concentration risk issued by a single entity;
 - (ii) holding in custody more than a certain percentage of crypto-assets or assets with crypto-asset service providers or credit institutions which belong to the same group, as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council⁴², or investment firms.

⁴¹ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

⁴² Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

For the purposes of point (d)(i) of the first subparagraph, EBA shall devise suitable limits to determine concentration requirements. Those limits shall take into account, amongst others, the relevant thresholds laid down in Article 52 of Directive 2009/65/EC.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Article 39

Right of redemption

1. Holders of asset-referenced tokens shall have a right of redemption at all times against the issuers of the asset-referenced tokens, and in respect of the reserve assets when issuers are not able to meet their obligations as referred to in Chapter 6 of this Title. Issuers shall establish, maintain and implement clear and detailed policies and procedures in respect of such permanent right of redemption.

2. Upon request by a holder of an asset-referenced token, an issuer of such token shall redeem either by paying an amount in funds, other than electronic money, equivalent to the market value of the assets referenced by the asset-referenced token held or by delivering the assets referenced by the token. Issuers shall establish a policy on such permanent right of redemption setting out:

(a) the conditions, including thresholds, periods and timeframes, for holders of asset-referenced tokens to exercise such right of redemption;

(b) the mechanisms and procedures to ensure the redemption of the asset-referenced tokens, including in stressed market circumstances, as well as in the context of the implementation of the recovery plan set out in Article 46 or, in the case of an orderly redemption of asset-referenced tokens, under Article 47;

(c) the valuation, or the principles of valuation, of the asset-referenced tokens and of the reserve assets when the right of redemption is exercised by the holder of asset-referenced tokens, including by using the valuation methodology set out in Article 36(11);

(d) the conditions for settlement of the redemption; and

(e) measures that the issuers take to adequately manage increases or decreases in the reserve of assets in order to avoid any adverse impacts on the market of the reserve assets.

Where issuers, when selling an asset-referenced token, accept a payment in funds other than electronic money, denominated in an official currency, they shall always provide an option to redeem the token in funds other than electronic money, denominated in the same official currency.

3. Without prejudice to Article 46, the redemption of asset-referenced tokens shall not be subject to a fee.

Article 40

Prohibition of granting interest

1. Issuers of asset-referenced tokens shall not grant interest in relation to asset-referenced tokens.
2. Crypto-asset service providers shall not grant interest when providing crypto-asset services related to asset-referenced tokens.
3. For the purposes of paragraphs 1 and 2, any remuneration or any other benefit related to the length of time during which a holder of asset-referenced tokens holds such asset-referenced tokens shall be treated as interest. That includes net compensation or discounts, with an effect equivalent to that of interest received by the holder of asset-referenced tokens, directly from the issuer or from third parties, and directly associated to the asset-referenced tokens or from the remuneration or pricing of other products.

CHAPTER 4**Acquisitions of issuers of asset-referenced tokens****Article 41****Assessment of proposed acquisitions of issuers of asset-referenced tokens**

1. Any natural or legal persons or such persons acting in concert who intend to acquire, directly or indirectly (the 'proposed acquirer'), a qualifying holding in an issuer of an asset-referenced token or to increase, directly or indirectly, such a qualifying holding so that the proportion of the voting rights or of the capital held would reach or exceed 20 %, 30 % or 50 %, or so that the issuer of the asset-referenced token would become its subsidiary, shall notify the competent authority of that issuer thereof in writing, indicating the size of the intended holding and the information required by the regulatory technical standards adopted by the Commission in accordance with Article 42(4).
2. Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in an issuer of an asset-referenced token shall, prior to disposing of that holding, notify in writing the competent authority of its decision and indicate the size of such holding. That person shall also notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below 10 %, 20 %, 30 % or 50 %, or so that the issuer of the asset-referenced token would cease to be that person's subsidiary.
3. The competent authority shall promptly and in any event within two working days following receipt of a notification pursuant to paragraph 1 acknowledge receipt thereof in writing.
4. The competent authority shall assess the proposed acquisition referred to in paragraph 1 of this Article and the information required by the regulatory technical standards adopted by the Commission in accordance with Article 42(4), within 60 working days of the date of the written acknowledgement of receipt referred to in paragraph 3 of this Article. When acknowledging receipt of the notification, the competent authority shall inform the proposed acquirer of the date of expiry of the assessment period.
5. When performing the assessment referred to in paragraph 4, the competent authority may request from the proposed acquirer any additional information that is necessary to complete that assessment. Such request shall be made before the assessment is finalised, and in any case no later than on the 50th working day from the date of the written acknowledgement of receipt referred to in paragraph 3. Such requests shall be made in writing and shall specify the additional information needed.

The competent authority shall suspend the assessment period referred to in paragraph 4 until it has received the additional information referred to in the first subparagraph of this paragraph. The suspension shall not exceed 20 working days. Any further requests by the competent authority for additional information or for clarification of the information received shall not result in an additional suspension of the assessment period.

The competent authority may extend the suspension referred to in the second subparagraph of this paragraph by up to 30 working days if the proposed acquirer is situated outside the Union or regulated under the law of a third country.

6. A competent authority that, upon completion of the assessment referred to in paragraph 4, decides to oppose the proposed acquisition referred to in paragraph 1 shall notify the proposed acquirer thereof within two working days, and in any event before the date referred to in paragraph 4 extended, where applicable, in

accordance with paragraph 5, second and third subparagraphs. The notification shall provide the reasons for such a decision.

7. Where the competent authority does not oppose the proposed acquisition referred to in paragraph 1 before the date referred to in paragraph 4 extended, where applicable, in accordance with paragraph 5, second and third subparagraphs, the proposed acquisition shall be deemed to be approved.

8. The competent authority may set a maximum period for concluding the proposed acquisition referred to in paragraph 1, and extend that maximum period where appropriate.

Article 42

Content of the assessment of proposed acquisitions of issuers of asset-referenced tokens

1. When performing the assessment referred to in Article 41(4), the competent authority shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition referred to in Article 41(1) against all of the following criteria:

- (a) the reputation of the proposed acquirer;
- (b) the reputation, knowledge, skills and experience of any person who will direct the business of the issuer of the asset-referenced token as a result of the proposed acquisition;
- (c) the financial soundness of the proposed acquirer, in particular in relation to the type of business envisaged and pursued in respect of the issuer of the asset-referenced token in which the acquisition is proposed;
- (d) whether the issuer of the asset-referenced token will be able to comply and continue to comply with the provisions of this Title;
- (e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of, respectively, Article 1(3) and (5) of Directive (EU) 2015/849 is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

2. The competent authority may oppose the proposed acquisition only where there are reasonable grounds for doing so based on the criteria set out in paragraph 1 of this Article or where the information provided in accordance with Article 41(4) is incomplete or false.

3. Member States shall not impose any prior conditions in respect of the level of qualifying holding that is required to be acquired under this Regulation nor allow their competent authorities to examine the proposed acquisition in terms of the economic needs of the market.

4. EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards specifying the detailed content of the information that is necessary to carry out the assessment referred to in Article 41(4), first subparagraph. The information required shall be relevant for a prudential assessment, proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition referred to in Article 41(1).

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

CHAPTER 5

Significant asset-referenced tokens

Article 43

Classification of asset-referenced tokens as significant asset-referenced tokens

1. The criteria for classifying asset-referenced tokens as significant asset-referenced tokens shall be the following, as further specified by the delegated acts adopted pursuant to paragraph 11:

- (a) the number of holders of the asset-referenced token is larger than 10 million;
- (b) the value of the asset-referenced token issued, its market capitalisation or the size of the reserve of assets of the issuer of the asset-referenced token is higher than EUR 5 000 000 000 ;
- (c) the average number and average aggregate value of transactions in that asset-referenced token per day during the relevant period, is higher than 2,5 million transactions and EUR 500 000 000 respectively;
- (d) the issuer of the asset-referenced token is a provider of core platform services designated as a gatekeeper in accordance with Regulation (EU) 2022/1925 of the European Parliament and of the Council⁴³;
- (e) the significance of the activities of the issuer of the asset-referenced token on an international scale, including the use of the asset-referenced token for payments and remittances;
- (f) the interconnectedness of the asset-referenced token or its issuers with the financial system;
- (g) the fact that the same issuer issues at least one additional asset-referenced token or e-money token, and provides at least one crypto-asset service.

2. EBA shall classify asset-referenced tokens as significant asset-referenced tokens where at least three of the criteria set out in paragraph 1 of this Article are met:

- (a) during the period covered by the first report of information as referred to in paragraph 4 of this Article, following authorisation pursuant to Article 21 or after approval of the crypto-asset white paper pursuant to Article 17; or
- (b) during the period covered by at least two consecutive reports of information as referred to in paragraph 4 of this Article.

3. Where several issuers issue the same asset-referenced token, the fulfilment of the criteria set out in paragraph 1 shall be assessed after aggregating the data from those issuers.

4. Competent authorities of the issuer's home Member State shall report to EBA and the ECB information relevant for the assessment of the fulfilment of the criteria set out in paragraph 1 of this Article, including, if applicable, the information received under Article 22, at least twice a year.

Where the issuer is established in a Member State whose official currency is not the euro, or where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, competent

⁴³ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).

authorities shall transmit the information referred to in the first subparagraph also to the central bank of that Member State.

5. Where EBA concludes that an asset-referenced token fulfils the criteria set out in paragraph 1 in accordance with paragraph 2, EBA shall prepare a draft decision to classify the asset-referenced token as a significant asset-referenced token and notify that draft decision to the issuer of that asset-referenced token, to the competent authority of the issuer's home Member State, to the ECB and, in the cases referred to in paragraph 4, second subparagraph, to the central bank of the Member State concerned.

Issuers of such asset-referenced tokens, their competent authorities, the ECB and, where applicable, the central bank of the Member State concerned shall have 20 working days from the date of notification of EBA's draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

6. EBA shall take its final decision on whether to classify an asset-referenced token as a significant asset-referenced token within 60 working days of the date of notification referred to in paragraph 5 and immediately notify that decision to the issuer of such asset-referenced token and its competent authority.

7. Where an asset-referenced token has been classified as significant pursuant to a decision of EBA taken in accordance with paragraph 6, the supervisory responsibilities with respect to the issuer of that significant asset-referenced token shall be transferred from the competent authority of the issuer's home Member State to EBA within 20 working days of the date of notification of that decision.

EBA and the competent authority shall cooperate in order to ensure the smooth transition of supervisory competences.

8. EBA shall annually reassess the classification of significant asset-referenced tokens on the basis of the available information, including from the reports referred to in paragraph 4 or the information received under Article 22.

Where EBA concludes that certain asset-referenced tokens no longer fulfil the criteria set out in paragraph 1 in accordance with paragraph 2, EBA shall prepare a draft decision to no longer classify the asset-referenced tokens as significant and notify that draft decision to the issuers of those asset-referenced tokens and the competent authority of their home Member State, to the ECB and, in the cases referred to in paragraph 4, second subparagraph, to the central bank of the Member State concerned.

Issuers of such asset-referenced tokens, their competent authorities, the ECB and the central bank referred in paragraph 4 shall have 20 working days from the date of notification of that draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

9. EBA shall take its final decision on whether to no longer classify an asset-referenced token as significant within 60 working days from the date of the notification referred to in paragraph 8 and immediately notify that decision to the issuer of such asset-referenced tokens and its competent authority.

10. Where an asset-referenced token is no longer classified as significant pursuant to a decision of EBA taken in accordance with paragraph 9, the supervisory responsibilities with respect to the issuer of that asset-referenced token shall be transferred from EBA to the competent authority of the issuer's home Member State within 20 working days from the date of notification of that decision.

EBA and the competent authority shall cooperate in order to ensure the smooth transition of supervisory competences.

11. The Commission shall adopt delegated acts in accordance with Article 139 to supplement this Regulation by further specifying the criteria set out in paragraph 1 for an asset-referenced token to be classified as significant and determine:

- (a) the circumstances under which the activities of the issuer of the asset-referenced token are deemed significant on an international scale outside the Union;
- (b) the circumstances under which asset-referenced tokens and their issuers shall be considered to be interconnected with the financial system;
- (c) the content and format of information provided by competent authorities to EBA and the ECB under paragraph 4 of this Article and Article 56(3).

Article 44

Voluntary classification of asset-referenced tokens as significant asset-referenced tokens

1. Applicant issuers of asset-referenced tokens may indicate in their application for authorisation pursuant to Article 18, or in their notification pursuant to Article 17, that they wish for their asset-referenced tokens to be classified as significant asset-referenced tokens. In that case, the competent authority shall immediately notify such request of the applicant issuer to EBA, to the ECB and, in the cases referred to in Article 43(4), to the central bank of the Member State concerned.

In order for an asset-referenced token to be classified as significant under this Article, the applicant issuer of the asset-referenced token shall demonstrate, through a detailed programme of operations referred to in Article 17(1), point (b)(i), and Article 18(2), point (d), that it is likely to fulfil at least three of the criteria set out in Article 43(1).

2. EBA shall, within 20 working days of the notification referred to in paragraph 1 of this Article, prepare a draft decision containing its opinion based on the programme of operations whether the asset-referenced token fulfils or is likely to fulfil at least three of the criteria set out in Article 43(1) and notify that draft decision to the competent authority of the applicant issuer's home Member State, to the ECB and, in the cases referred to in Article 43(4), second subparagraph, to the central bank of the Member State concerned.

Competent authorities of issuers of such asset-referenced tokens, the ECB and, where applicable, the central bank of the Member State concerned, shall have 20 working days from the date of notification of that draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

3. EBA shall take its final decision on whether to classify an asset-referenced token as a significant asset-referenced token within 60 working days of the notification referred to in paragraph 1 and immediately notify that decision to the applicant issuer of such asset-referenced token and its competent authority.

4. Where asset-referenced tokens have been classified as significant pursuant to a decision of EBA taken in accordance with paragraph 3 of this Article, the supervisory responsibilities with respect to issuers of those asset-referenced tokens shall be transferred from the competent authority to EBA on the date of the decision of the competent authority to grant the authorisation referred to in Article 21(1) or on the date of approval of the crypto-asset white paper pursuant to Article 17.

Article 45

Specific additional obligations for issuers of significant asset-referenced tokens

1. Issuers of significant asset-referenced tokens shall adopt, implement and maintain a remuneration policy that promotes the sound and effective risk management of such issuers and that does not create incentives to relax risk standards.
2. Issuers of significant asset-referenced tokens shall ensure that such tokens can be held in custody by different crypto-asset service providers authorised for providing custody and administration of crypto-assets on behalf of clients, including by crypto-asset service providers that do not belong to the same group, as defined in Article 2, point (11), of Directive 2013/34/EU, on a fair, reasonable and non-discriminatory basis.
3. Issuers of significant asset-referenced tokens shall assess and monitor the liquidity needs to meet requests for redemption of asset-referenced tokens by their holders. For that purpose, issuers of significant asset-referenced tokens shall establish, maintain and implement a liquidity management policy and procedures. That policy and those procedures shall ensure that the reserve assets have a resilient liquidity profile that enables issuers of significant asset-referenced tokens to continue operating normally, including under scenarios of liquidity stress.
4. Issuers of significant asset-referenced tokens shall, on a regular basis, conduct liquidity stress testing. Depending on the outcome of such tests, EBA may decide to strengthen the liquidity requirements referred to in paragraph 7, first subparagraph, point (b), of this Article and in Article 36(4).

Where issuers of significant asset-referenced tokens offer two or more asset-referenced tokens or provide crypto-asset services, those stress tests shall cover all of those activities in a comprehensive and holistic manner.

5. The percentage referred to in Article 35(1), first subparagraph, point (b), shall be set at 3 % of the average amount of the reserve assets for issuers of significant asset-referenced tokens.
6. Where several issuers offer the same significant asset-referenced token, paragraphs 1 to 5 shall apply to each issuer.

Where an issuer offers two or more asset-referenced tokens in the Union and at least one of those asset-referenced tokens is classified as significant, paragraphs 1 to 5 shall apply to that issuer.

7. EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards specifying:
 - (a) the minimum content of the governance arrangements on the remuneration policy referred to in paragraph 1;
 - (b) the minimum contents of the liquidity management policy and procedures as set out in paragraph 3, and liquidity requirements, including by specifying the minimum amount of deposits in each official currency referenced, which cannot be lower than 60 % of the amount referenced in each official currency;
 - (c) the procedure and timeframe for an issuer of a significant asset-referenced token to adjust the amount of its own funds as required by paragraph 5.

In the case of credit institutions, EBA shall calibrate the technical standards taking into consideration any possible interactions between the regulatory requirements established by this Regulation and the regulatory requirements established by other Union legislative acts.

EBA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

8. EBA, in close cooperation with ESMA and the ECB, shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 with a view to establishing the common reference parameters of the stress test scenarios to be included in the stress tests referred to in paragraph 4 of this Article. Those guidelines shall be updated periodically taking into account the latest market developments.

CHAPTER 6

Recovery and redemption plans

Article 46

Recovery plan

1. An issuer of an asset-referenced token shall draw up and maintain a recovery plan providing for measures to be taken by the issuer to restore compliance with the requirements applicable to the reserve of assets in cases where the issuer fails to comply with those requirements.

The recovery plan shall also include the preservation of the issuer's services related to the asset-referenced token, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that pose a significant risk of disrupting operations.

The recovery plan shall include appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options, including:

- (a) liquidity fees on redemptions;
- (b) limits on the amount of the asset-referenced token that can be redeemed on any working day;
- (c) suspension of redemptions.

2. The issuer of the asset-referenced token shall notify the recovery plan to the competent authority within six months of the date of authorisation pursuant to Article 21 or within six months of the date of approval of the crypto-asset white paper pursuant to Article 17. The competent authority shall require amendments to the recovery plan where necessary to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer within 40 working days of the date of notification of that plan. That decision shall be implemented by the issuer within 40 working days of the date of notification of that decision. The issuer shall regularly review and update the recovery plan.

Where applicable, the issuer shall also notify the recovery plan to its resolution and prudential supervisory authorities in parallel to the competent authority.

3. Where the issuer fails to comply with the requirements applicable to the reserve of assets as referred to in Chapter 3 of this Title or, due to a rapidly deteriorating financial condition, is likely in the near future to not comply with those requirements, the competent authority, in order to ensure compliance with the applicable requirements, shall have the power to require the issuer to implement one or more of the arrangements or measures set out in the recovery plan or to update such a recovery plan when the circumstances are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specific timeframe.

4. In the circumstances referred to in paragraph 3, the competent authority shall have the power to temporarily suspend the redemption of asset-referenced tokens, provided that the suspension is justified having regard to the interests of the holders of asset-referenced tokens and financial stability.

5. Where applicable, the competent authority shall notify the issuer's resolution and prudential supervisory authorities of any measure taken pursuant to paragraphs 3 and 4.

6. EBA, after consultation with ESMA, shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 to specify the format of the recovery plan and the information to be provided in the recovery plan.

Article 47

Redemption plan

1. An issuer of an asset-referenced token shall draw up and maintain an operational plan to support the orderly redemption of each asset-referenced token, which is to be implemented upon a decision by the competent authority that the issuer is unable or likely to be unable to fulfil its obligations, including in the case of insolvency or, where applicable, resolution or in the case of withdrawal of authorisation of the issuer, without prejudice to the commencement of a crisis prevention measure or crisis management measure as defined in Article 2(1), points (101) and (102), respectively, of Directive 2014/59/EU or a resolution action as defined in Article 2, point (11), of Regulation (EU) 2021/23 of the European Parliament and of the Council⁴⁴.

2. The redemption plan shall demonstrate the ability of the issuer of the asset-referenced token to carry out the redemption of the outstanding asset-referenced token issued without causing undue economic harm to its holders or to the stability of the markets of the reserve assets.

The redemption plan shall include contractual arrangements, procedures and systems, including the designation of a temporary administrator in accordance with applicable law, to ensure the equitable treatment of all holders of asset-referenced tokens and to ensure that holders of asset-referenced tokens are paid in a timely manner with the proceeds from the sale of the remaining reserve assets.

The redemption plan shall ensure the continuity of any critical activities that are necessary for the orderly redemption and that are performed by issuers or by any third-party entity.

3. The issuer of the asset-referenced token shall notify the redemption plan to the competent authority within six months of the date of authorisation pursuant to Article 21 or within six months of the date of approval of the crypto-asset white paper pursuant to Article 17. The competent authority shall require amendments to the redemption plan where necessary to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer within 40 working days of the date of notification of that plan. That decision shall be implemented by the issuer within 40 working days of the date of notification of that decision. The issuer shall regularly review and update the redemption plan.

4. Where applicable, the competent authority shall notify the redemption plan to the resolution authority and prudential supervisory authority of the issuer.

The resolution authority may examine the redemption plan with a view to identifying any actions in the redemption plan that might adversely impact the resolvability of the issuer, and may make recommendations to the competent authority in respect thereof.

5. EBA shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 to specify:

- (a) the content of the redemption plan and the periodicity for review, taking into account the size, complexity and nature of the asset-referenced token and the business model of its issuer; and
- (b) the triggers for implementation of the redemption plan.

⁴⁴ Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 (OJ L 22, 22.1.2021, p. 1).

TITLE IV E-MONEY TOKENS

CHAPTER 1

Requirements to be fulfilled by all issuers of e-money tokens

Article 48

Requirements for the offer to the public or admission to trading of e-money tokens

1. A person shall not make an offer to the public or seek the admission to trading of an e-money token, within the Union, unless that person is the issuer of such e-money token and:

- (a) is authorised as a credit institution or as an electronic money institution; and
- (b) has notified a crypto-asset white paper to the competent authority and has published that crypto-asset white paper in accordance with Article 51.

Notwithstanding the first subparagraph, upon the written consent of the issuer, other persons may offer to the public or seek the admission to trading of the e-money token. Those persons shall comply with Articles 50 and 53.

2. E-money tokens shall be deemed to be electronic money.

An e-money token that references an official currency of a Member State shall be deemed to be offered to the public in the Union.

3. Titles II and III of Directive 2009/110/EC shall apply with respect to e-money tokens unless otherwise stated in this Title.

4. Paragraph 1 of this Article shall not apply to issuers of e-money tokens exempted in accordance with Article 9(1) of Directive 2009/110/EC.

5. This Title, with the exception of paragraph 7 of this Article and Article 51, shall not apply in respect of e-money tokens exempt pursuant to Article 1(4) and (5) of Directive 2009/110/EC.

6. Issuers of e-money tokens shall, at least 40 working days before the date on which they intend to offer to the public those e-money tokens or seek their admission to trading, notify their competent authority of that intention.

7. Where paragraph 4 or 5 applies, the issuers of e-money tokens shall draw up a crypto-asset white paper and notify such crypto-asset white paper to the competent authority in accordance with Article 51.

Article 49

Issuance and redeemability of e-money tokens

1. By way of derogation from Article 11 of Directive 2009/110/EC, in respect of the issuance and redeemability of e-money tokens only the requirements set out in this Article shall apply to issuers of e-money tokens.
2. Holders of e-money tokens shall have a claim against the issuers of those e-money tokens.
3. Issuers of e-money tokens shall issue e-money tokens at par value and on the receipt of funds.
4. Upon request by a holder of an e-money token, the issuer of that e-money token shall redeem it, at any time and at par value, by paying in funds, other than electronic money, the monetary value of the e-money token held to the holder of the e-money token.
5. Issuers of e-money tokens shall prominently state the conditions for redemption in the crypto-asset white paper as referred to in Article 51(1), first subparagraph, point (d).
6. Without prejudice to Article 46, the redemption of e-money tokens shall not be subject to a fee.

Article 50

Prohibition of granting interest

1. Notwithstanding Article 12 of Directive 2009/110/EC, issuers of e-money tokens shall not grant interest in relation to e-money tokens.
2. Crypto-asset service providers shall not grant interest when providing crypto-asset services related to e-money tokens.
3. For the purposes of paragraphs 1 and 2, any remuneration or any other benefit related to the length of time during which a holder of an e-money token holds such e-money token shall be treated as interest. That includes net compensation or discounts, with an effect equivalent to that of interest received by the holder of the e-money token, directly from the issuer or from third parties, and directly associated to the e-money token or from the remuneration or pricing of other products.

Article 51

Content and form of the crypto-asset white paper for e-money tokens

1. A crypto-asset white paper for an e-money token shall contain all of the following information, as further specified in Annex III:

- (a) information about the issuer of the e-money token;
- (b) information about the e-money token;
- (c) information about the offer to the public of the e-money token or its admission to trading;
- (d) information on the rights and obligations attached to the e-money token;
- (e) information on the underlying technology;
- (f) information on the risks;
- (g) information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the e-money token.

The crypto-asset white paper shall also include the identity of the person other than the issuer that offers the e-money token to the public or seeks its admission to trading pursuant to Article 48(1), second subparagraph, and the reason why that particular person offers that e-money token or seeks its admission to trading.

2. All the information listed in paragraph 1 shall be fair, clear and not misleading. The crypto-asset white paper shall not contain material omissions and shall be presented in a concise and comprehensible form.

3. The crypto-asset white paper shall contain the following clear and prominent statement on the first page:

'This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The issuer of the crypto-asset is solely responsible for the content of this crypto-asset white paper.'

4. The crypto-asset white paper shall contain a clear warning that:

- (a) the e-money token is not covered by the investor compensation schemes under Directive 97/9/EC;
- (b) the e-money token is not covered by the deposit guarantee schemes under Directive 2014/49/EU.

5. The crypto-asset white paper shall contain a statement from the management body of the issuer of the e-money token. That statement, which shall be inserted after the statement referred to in paragraph 3, shall confirm that the crypto-asset white paper complies with this Title and that, to the best of the knowledge of the management body, the information presented in the crypto-asset white paper is complete, fair, clear and not misleading and that the crypto-asset white paper makes no omission likely to affect its import.

6. The crypto-asset white paper shall contain a summary, inserted after the statement referred to in paragraph 5, which shall in brief and non-technical language provide key information about the offer to the public of the e-money token or the intended admission to trading of such e-money token. The summary shall be easily understandable and presented and laid out in a clear and comprehensive format, using characters of readable size. The summary of the crypto-asset white paper shall provide appropriate information about the characteristics of the crypto-assets concerned in order to help prospective holders of the crypto-assets to make an informed decision.

The summary shall contain a warning that:

- (a) it should be read as an introduction to the crypto-asset white paper;
- (b) the prospective holder should base any decision to purchase the e-money token on the content of the crypto-asset white paper as a whole and not on the summary alone;
- (c) the offer to the public of the e-money token does not constitute an offer or solicitation to purchase financial instruments and that any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law;
- (d) the crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 or any other offer document pursuant to Union or national law.

The summary shall state that holders of the e-money token have a right of redemption at any time and at par value as well as the conditions for redemption.

- 7. The crypto-asset white paper shall contain the date of its notification and a table of contents.
- 8. The crypto-asset white paper shall be drawn up in an official language of the home Member State or in a language customary in the sphere of international finance.

Where the e-money token is also offered in a Member State other than the home Member State, the crypto-asset white paper shall also be drawn up in an official language of the host Member State or in a language customary in the sphere of international finance.

- 9. The crypto-asset white paper shall be made available in a machine-readable format.
- 10. ESMA, in cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, formats and templates for the purposes of paragraph 9.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

- 11. Issuers of e-money tokens shall notify their crypto-asset white paper to their competent authority at least 20 working days before the date of their publication.

Competent authorities shall not require prior approval of crypto-asset white papers before their publication.

- 12. Any significant new factor, any material mistake or any material inaccuracy that is capable of affecting the assessment of the e-money token shall be described in a modified crypto-asset white paper drawn up by the issuers, notified to the competent authorities and published on the issuers' websites.

- 13. Before offering the e-money token to the public in the Union or seeking an admission to trading of the e-money token, the issuer of such e-money token shall publish a crypto-asset white paper on its website.

- 14. The issuer of the e-money token shall together with the notification of the crypto-asset white paper pursuant to paragraph 11 of this Article provide the competent authority with the information referred to in Article 109(4). The competent authority shall communicate to ESMA, within five working days of receipt of the information from the issuer, the information specified in Article 109(4).

The competent authority shall also communicate to ESMA any modified crypto-asset white paper and any withdrawal of the authorisation of the issuer of the e-money token.

ESMA shall make such information available in the register, under Article 109(4), by the starting date of the offer to the public or admission to trading or, in the case of a modified crypto-asset white paper, or withdrawal of the authorisation, without undue delay.

15. ESMA, in cooperation with EBA, shall develop draft regulatory technical standards on the content, methodologies and presentation of the information referred to in paragraph 1, point (g), in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

When developing the draft regulatory technical standards referred to in the first subparagraph, ESMA shall consider the various types of consensus mechanisms used to validate transactions in crypto-assets, their incentive structures and the use of energy, renewable energy and natural resources, the production of waste, and greenhouse gas emissions. ESMA shall update the regulatory technical standards in the light of regulatory and technological developments.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 52

Liability of issuers of e-money tokens for the information given in a crypto-asset white paper

1. Where an issuer of an e-money token has infringed Article 51, by providing in its crypto-asset white paper or in a modified crypto-asset white paper, information that is not complete, fair or clear, or that is misleading, that issuer and the members of its administrative, management or supervisory body shall be liable to a holder of such e-money token for any loss incurred due to that infringement.
2. Any contractual exclusion or limitation of civil liability as referred to in paragraph 1 shall be deprived of legal effect.
3. It shall be the responsibility of the holder of the e-money token to present evidence indicating that the issuer of that e-money token has infringed Article 51 by providing in its crypto-asset white paper or in a modified crypto-asset white paper information that is not complete, fair or clear, or that is misleading and that reliance on such information had an impact on the holder's decision to purchase, sell or exchange that e-money token.
4. The issuer and the members of its administrative, management or supervisory bodies shall not be liable for loss suffered as a result of reliance on the information provided in a summary pursuant to Article 51(6), including any translation thereof, except where the summary:
 - (a) is misleading, inaccurate or inconsistent when read together with the other parts of the crypto-asset white paper; or
 - (b) does not provide, when read together with the other parts of the crypto-asset white paper, key information in order to aid prospective holders when considering whether to purchase such e-money tokens.
5. This Article is without prejudice to any other civil liability pursuant to national law.

Article 53

Marketing communications

1. Marketing communications relating to an offer to the public of an e-money token, or to the admission to trading of such e-money token, shall comply with all the following requirements:
 - (a) the marketing communications are clearly identifiable as such;
 - (b) the information in the marketing communications is fair, clear and not misleading;
 - (c) the information in the marketing communications is consistent with the information in the crypto-asset white paper;
 - (d) the marketing communications clearly state that a crypto-asset white paper has been published and clearly indicate the address of the website of the issuer of the e-money token, as well as a telephone number and an email address to contact the issuer.
2. Marketing communications shall contain a clear and unambiguous statement that the holders of the e-money token have a right of redemption against the issuer at any time and at par value.
3. Marketing communications and any modifications thereto shall be published on the issuer's website.
4. Competent authorities shall not require prior approval of marketing communications before their publication.
5. Marketing communications shall be notified to the competent authorities upon request.
6. No marketing communications shall be disseminated prior to the publication of the crypto-asset white paper. Such restriction does not affect the ability of the issuer of the e-money token to conduct market soundings.

Article 54

Investment of funds received in exchange for e-money tokens

Funds received by issuers of e-money tokens in exchange for e-money tokens and safeguarded in accordance with Article 7(1) of Directive 2009/110/EC shall comply with the following:

- (a) at least 30 % of the funds received is always deposited in separate accounts in credit institutions;
- (b) the remaining funds received are invested in secure, low-risk assets that qualify as highly liquid financial instruments with minimal market risk, credit risk and concentration risk, in accordance with Article 38(1) of this Regulation, and are denominated in the same official currency as the one referenced by the e-money token.

Article 55

Recovery and redemption plans

Title III, Chapter 6 shall apply *mutatis mutandis* to issuers of e-money tokens.

By way of derogation from Article 46(2), the date by which the recovery plan is to be notified to the competent authority shall, in respect of issuers of e-money tokens, be within six months of the date of the offer to the public or admission to trading.

By way of derogation from Article 47(3), the date by which the redemption plan is to be notified to the competent authority shall, in respect of issuers of e-money tokens, be within six months of the date of the offer to the public or admission to trading.

CHAPTER 2

Significant e-money tokens

Article 56

Classification of e-money tokens as significant e-money tokens

1. EBA shall classify e-money tokens as significant e-money tokens where at least three of the criteria set out in Article 43(1) are met:

(a) during the period covered by the first report of information as referred to in paragraph 3 of this Article, following the offer to the public or the seeking admission to trading of those tokens; or

(b) during the period covered by at least two consecutive reports of information as referred to in paragraph 3 of this Article.

2. Where several issuers issue the same e-money token, the fulfilment of the criteria set out in Article 43(1) shall be assessed after aggregating the data from those issuers.

3. Competent authorities of the issuer's home Member State shall report to EBA and the ECB information relevant for the assessment of the fulfilment of the criteria set out in Article 43(1), including, if applicable, the information received under Article 22, at least twice a year.

Where the issuer is established in a Member State whose official currency is not the euro, or where an official currency of a Member State that is not the euro is referenced by the e-money token, competent authorities shall transmit the information referred to in the first subparagraph also to the central bank of that Member State.

4. Where EBA concludes that an e-money token fulfils the criteria set out in Article 43(1) in accordance with paragraph 1 of this Article, EBA shall prepare a draft decision to classify the e-money token as a significant e-money token and notify that draft decision to the issuer of the e-money token, the competent authority of the issuer's home Member State, to the ECB and, in the cases referred to in paragraph 3, second subparagraph, of this Article, to the central bank of the Member State concerned.

Issuers of such e-money tokens, their competent authorities, the ECB and, where applicable, the central bank of the Member State concerned shall have 20 working days from the date of notification of that draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

5. EBA shall take its final decision on whether to classify an e-money token as a significant e-money token within 60 working days from the date of notification referred to in paragraph 4 and immediately notify that decision to the issuer of such e-money token and its competent authority.

6. Where an e-money token has been classified as significant pursuant to a decision of EBA taken in accordance with paragraph 5, the supervisory responsibilities with respect to the issuer of that e-money token shall be transferred from the competent authority of the issuer's home Member State to EBA in accordance with Article 117(4) within 20 working days from the date of notification of that decision.

EBA and the competent authority shall cooperate in order to ensure the smooth transition of supervisory competences.

7. By way of derogation from paragraph 6, the supervisory responsibilities with respect to the issuers of significant e-money tokens denominated in an official currency of a Member State other than the euro, where at least 80 % of the number of holders and of the volume of transactions of those significant e-money tokens are concentrated in the home Member State, shall not be transferred to EBA.

The competent authority of the issuer's home Member State shall provide EBA annually with information on any cases where the derogation referred to in the first subparagraph is applied.

For the purposes of the first subparagraph, a transaction shall be considered to take place in the home Member State when the payer or the payee is established in that Member State.

8. EBA shall annually reassess the classification of significant e-money tokens on the basis of the available information, including from the reports referred to in paragraph 3 of this Article or the information received under Article 22.

Where EBA concludes that certain e-money tokens no longer meet the criteria set out in Article 43(1), in accordance with paragraph 1 of this Article, EBA shall prepare a draft decision to no longer classify the e-money token as significant and notify that draft decision to the issuers of those e-money tokens, to the competent authorities of their home Member State, to the ECB and, in the cases referred to in paragraph 3, second subparagraph, of this Article, to the central bank of the Member State concerned.

Issuers of such e-money tokens, their competent authorities, the ECB and the central bank of the Member State concerned shall have 20 working days from the date of notification of that draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

9. EBA shall take its final decision on whether to no longer classify an e-money token as significant within 60 working days from the date of the notification referred to in paragraph 8 and immediately notify that decision to the issuer of that e-money token and its competent authority.

10. Where an e-money token is no longer classified as significant pursuant to a decision of EBA taken in accordance with paragraph 9, the supervisory responsibilities with respect to the issuer of that e-money token shall be transferred from EBA to the competent authority of the issuer's home Member State within 20 working days from the date of notification of that decision.

EBA and the competent authority shall cooperate in order to ensure the smooth transition of supervisory competences.

Article 57

Voluntary classification of e-money tokens as significant e-money tokens

1. An issuer of an e-money token, authorised as a credit institution or as an electronic money institution, or applying for such authorisation, may indicate that it wishes for its e-money token to be classified as a significant e-money token. In that case, the competent authority shall immediately notify such request of the issuer to EBA, to the ECB and, in the cases referred to in Article 56(3), second subparagraph, to the central bank of the Member State concerned.

In order for the e-money token to be classified as significant under this Article, the issuer of the e-money token shall demonstrate, through a detailed programme of operations, that it is likely to meet at least three of the criteria set out in Article 43(1).

2. EBA shall, within 20 working days from the date of notification referred to in paragraph 1 of this Article, prepare a draft decision containing its opinion based on the issuer's programme of operations whether the e-money token fulfils or is likely to fulfil at least three of the criteria set out in Article 43(1) and notify that draft decision to the competent authority of the issuer's home Member State, to the ECB and, in the cases referred to in Article 56(3), second subparagraph, to the central bank of the Member State concerned.

The competent authorities of issuers of such e-money tokens, the ECB and, where applicable, the central bank of the Member State concerned shall have 20 working days from the date of notification of that draft decision to provide observations and comments in writing. EBA shall duly consider those observations and comments before adopting a final decision.

3. EBA shall take its final decision on whether to classify an e-money token as a significant e-money token within 60 working days of the date of notification referred to in paragraph 1 and immediately notify that decision to the issuer of such e-money token and its competent authority.

4. Where an e-money token has been classified as significant pursuant to a decision of EBA taken in accordance with paragraph 3 of this Article, the supervisory responsibilities with respect to issuers of those e-money tokens shall be transferred from the competent authority to EBA in accordance with Article 117(4) within 20 working days from the date of notification of that decision.

EBA and the competent authorities shall cooperate in order to ensure the smooth transition of supervisory competences.

5. By way of derogation from paragraph 4, the supervisory responsibilities with respect to issuers of significant e-money tokens denominated in an official currency of a Member State other than the euro shall not be transferred to EBA, where at least 80 % of the number of holders and of the volume of transactions of those significant e-money tokens are or are expected to be concentrated in the home Member State.

The competent authority of the issuer's home Member State shall provide EBA annually with information on the application of the derogation referred to in the first subparagraph.

For the purposes of the first subparagraph, a transaction shall be considered to take place in the home Member State when the payer or the payee are established in that Member State.

Article 58

Specific additional obligations for issuers of e-money tokens

1. Electronic money institutions issuing significant e-money tokens shall be subject to:
 - (a) the requirements referred to in Articles 36, 37, 38 and Article 45, (1) to (4) of this Regulation, instead of Article 7 of Directive 2009/110/EC;
 - (b) the requirements referred to in Article 35(2), (3) and (5) and Article 45(5) of this Regulation, instead of Article 5 of Directive 2009/110/EC.

By way of derogation from Article 36(9), the independent audit shall, in respect of issuers of significant e-money tokens, be mandated every six months as of the date of the decision to classify the e-money tokens as significant pursuant to Article 56 or 57, as applicable.

2. Competent authorities of the home Member States may require electronic money institutions issuing e-money tokens that are not significant to comply with any requirement referred to in paragraph 1 where necessary to address the risks that those provisions aim to address, such as liquidity risks, operational risks, or risks arising from non-compliance with requirements for management of reserve of assets.
3. Articles 22, 23 and 24(3) shall apply to e-money tokens denominated in a currency that is not an official currency of a Member State.

TITLE V
AUTHORISATION AND OPERATING CONDITIONS FOR CRYPTO-ASSET SERVICE PROVIDERS

CHAPTER 1
Authorisation of crypto-asset service providers

Article 59
Authorisation

1. A person shall not provide crypto-asset services, within the Union, unless that person is:
 - (a) a legal person or other undertaking that has been authorised as crypto-asset service provider in accordance with Article 63; or
 - (b) a credit institution, central securities depository, investment firm, market operator, electronic money institution, UCITS management company, or an alternative investment fund manager that is allowed to provide crypto-asset services pursuant to Article 60.
2. Crypto-asset service providers authorised in accordance with Article 63 shall have a registered office in a Member State where they carry out at least part of their crypto-asset services. They shall have their place of effective management in the Union and at least one of the directors shall be resident in the Union.
3. For the purposes of paragraph 1, point (a), other undertakings that are not legal persons shall only provide crypto-asset services if their legal form ensures a level of protection for third parties' interests equivalent to that afforded by legal persons and if they are subject to equivalent prudential supervision appropriate to their legal form.
4. Crypto-asset service providers authorised in accordance with Article 63 shall at all times meet the conditions for their authorisation.
5. A person who is not a crypto-asset service provider shall not use a name, or a corporate name, or issue marketing communications or undertake any other process suggesting that it is a crypto-asset service provider or that is likely to create confusion in that respect.
6. Competent authorities that grant authorisations in accordance with Article 63 shall ensure that such authorisations specify the crypto-asset services that crypto-asset service providers are authorised to provide.
7. Crypto-asset service providers shall be allowed to provide crypto-asset services throughout the Union, either through the right of establishment, including through a branch, or through the freedom to provide services. Crypto-asset service providers that provide crypto-asset services on a cross-border basis shall not be required to have a physical presence in the territory of a host Member State.
8. Crypto-asset service providers seeking to add crypto-asset services to their authorisation as referred to in Article 63 shall request the competent authorities that granted their initial authorisation for an extension of their authorisation by complementing and updating the information referred to in Article 62. The request for extension shall be processed in accordance with Article 63.

Article 60

Provision of crypto-asset services by certain financial entities

1. A credit institution may provide crypto-asset services if it notifies the information referred to in paragraph 7 to the competent authority of its home Member State at least 40 working days before providing those services for the first time.

2. A central securities depository authorised under Regulation (EU) No 909/2014 of the European Parliament and of the Council⁴⁵ shall only provide custody and administration of crypto-assets on behalf of clients if it notifies the information referred to in paragraph 7 of this Article to the competent authority of the home Member State, at least 40 working days before providing that service for the first time.

For the purposes of the first subparagraph of this paragraph, providing custody and administration of crypto-assets on behalf of clients is deemed equivalent to providing, maintaining or operating securities accounts in relation to the settlement service referred to in Section B, point (3), of the Annex to Regulation (EU) No 909/2014.

3. An investment firm may provide crypto-asset services in the Union equivalent to the investment services and activities for which it is specifically authorised under Directive 2014/65/EU if it notifies the competent authority of the home Member State of the information referred to in paragraph 7 of this Article at least 40 working days before providing those services for the first time.

For the purposes of this paragraph:

- (a) providing custody and administration of crypto-assets on behalf of clients is deemed equivalent to the ancillary service referred to in Section B, point (1), of Annex I to Directive 2014/65/EU;
- (b) the operation of a trading platform for crypto-assets is deemed equivalent to the operation of a multilateral trading facility and operation of an organised trading facility referred to in Section A, points (8) and (9), respectively, of Annex I to Directive 2014/65/EU;
- (c) the exchange of crypto-assets for funds and other crypto-assets is deemed equivalent to dealing on own account referred to in Section A, point (3), of Annex I to Directive 2014/65/EU;
- (d) the execution of orders for crypto-assets on behalf of clients is deemed equivalent to the execution of orders on behalf of clients referred to in Section A, point (2), of Annex I to Directive 2014/65/EU;
- (e) the placing of crypto-assets is deemed equivalent to the underwriting or placing of financial instruments on a firm commitment basis and placing of financial instruments without a firm commitment basis referred to in Section A, points (6) and (7), respectively, of Annex I to Directive 2014/65/EU;
- (f) the reception and transmission of orders for crypto-assets on behalf of clients is deemed equivalent to the reception and transmission of orders in relation to one or more financial instruments referred to in Section A, point (1), of Annex I to Directive 2014/65/EU;
- (g) providing advice on crypto-assets is deemed equivalent to investment advice referred to in Section A, point (5), of Annex I to Directive 2014/65/EU;

⁴⁵ Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directive 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

(h) providing portfolio management on crypto-assets is deemed equivalent to portfolio management referred to in Section A, point (4), of Annex I to Directive 2014/65/EU.

4. An electronic money institution authorised under Directive 2009/110/EC shall only provide custody and administration of crypto-assets on behalf of clients and transfer services for crypto-assets on behalf of clients with regard to the e-money tokens it issues if it notifies the competent authority of the home Member State of the information referred to in paragraph 7 of this Article at least 40 working days before providing those services for the first time.

5. A UCITS management company or an alternative investment fund manager may provide crypto-asset services equivalent to the management of portfolios of investment and non-core services for which it is authorised under Directive 2009/65/EC or Directive 2011/61/EU if it notifies the competent authority of the home Member State of the information referred to in paragraph 7 of this Article at least 40 working days before providing those services for the first time.

For the purposes of this paragraph:

(a) the reception and transmission of orders for crypto-assets on behalf of clients is deemed equivalent to the reception and transmission of orders in relation to financial instruments referred in Article 6(4), point (b)(iii), of Directive 2011/61/EU;

(b) providing advice on crypto-assets is deemed equivalent to investment advice referred to in Article 6(4), point (b)(i), of Directive 2011/61/EU and in Article 6(3), point (b)(i), of Directive 2009/65/EC;

(c) providing portfolio management on crypto-assets is deemed equivalent to the services referred to in Article 6(4), point (a), of Directive 2011/61/EU and in Article 6(3), point (a), of Directive 2009/65/EC.

6. A market operator authorised under Directive 2014/65/EU may operate a trading platform for crypto-assets if it notifies the competent authority of the home Member State of the information referred to in paragraph 7 of this Article at least 40 working days before providing those services for the first time.

7. For the purposes of paragraphs 1 to 6, the following information shall be notified:

(a) a programme of operations setting out the types of crypto-asset services that the applicant crypto-asset service provider intends to provide, including where and how those services are to be marketed;

(b) a description of:

(i) the internal control mechanisms, policies and procedures to ensure compliance with the provisions of national law transposing Directive (EU) 2015/849;

(ii) the risk assessment framework for the management of money laundering and terrorist financing risks; and

(iii) the business continuity plan;

(c) the technical documentation of the ICT systems and security arrangements, and a description thereof in non-technical language;

(d) a description of the procedure for the segregation of clients' crypto-assets and funds;

(e) a description of the custody and administration policy, where it is intended to provide custody and administration of crypto-assets on behalf of clients;

- (f) a description of the operating rules of the trading platform and of the procedures and system to detect market abuse, where it is intended to operate a trading platform for crypto-assets;
- (g) a description of the non-discriminatory commercial policy governing the relationship with clients as well as a description of the methodology for determining the price of the crypto-assets they propose to exchange for funds or other crypto-assets, where it is intended to exchange crypto-assets for funds or other crypto-assets;
- (h) a description of the execution policy, where it is intended to execute orders for crypto-assets on behalf of clients;
- (i) evidence that the natural persons giving advice on behalf of the applicant crypto-asset service provider or managing portfolios on behalf of the applicant crypto-asset service provider have the necessary knowledge and expertise to fulfil their obligations, where it is intended to provide advice on crypto-assets or provide portfolio management on crypto-assets;
- (j) whether the crypto-asset service relates to asset-referenced tokens, e-money tokens or other crypto-assets;
- (k) information on the manner in which such transfer services will be provided, where it is intended to provide transfer services for crypto-assets on behalf of clients.

8. A competent authority receiving a notification as referred to in paragraphs 1 to 6 shall, within 20 working days of receipt of such notification, assess whether all required information has been provided. Where the competent authority concludes that a notification is not complete, it shall immediately inform the notifying entity thereof and set a deadline by which that entity is required to provide the missing information.

The deadline for providing any missing information shall not exceed 20 working days from the date of the request. Until the expiry of that deadline, each period as set out in paragraphs 1 to 6 shall be suspended. Any further requests by the competent authority for completion or clarification of the information shall be at its discretion but shall not result in a suspension of any period set out in paragraphs 1 to 6.

The crypto-asset service provider shall not begin providing the crypto-asset services as long as the notification is incomplete.

9. The entities referred to in paragraphs 1 to 6 shall not be required to submit any information referred to in paragraph 7 that was previously submitted by them to the competent authority where such information would be identical. When submitting the information referred to in paragraph 7, the entities referred to in paragraphs 1 to 6 shall expressly state that any information that was submitted previously is still up-to-date.

10. Where the entities referred to in paragraphs 1 to 6 of this Article provide crypto-asset services, they shall not be subject to Articles 62, 63, 64, 67, 83 and 84.

11. The right to provide crypto-asset services referred to in paragraphs 1 to 6 of this Article shall be revoked upon the withdrawal of the relevant authorisation that enabled the respective entity to provide the crypto-asset services without being required to obtain an authorisation pursuant to Article 59.

12. Competent authorities shall communicate to ESMA the information specified in Article 109(5), after verifying the completeness of the information referred to in paragraph 7.

ESMA shall make such information available in the register referred to in Article 109 by the starting date of the intended provision of crypto-asset services.

13. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards to further specify the information referred to in paragraph 7.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

14. ESMA, in close cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the notification pursuant to paragraph 7.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 61

Provision of crypto-asset services at the exclusive initiative of the client

1. Where a client established or situated in the Union initiates at its own exclusive initiative the provision of a crypto-asset service or activity by a third-country firm, the requirement for authorisation under Article 59 shall not apply to the provision of that crypto-asset service or activity by the third-country firm to that client, including a relationship specifically relating to the provision of that crypto-asset service or activity.

Without prejudice to intragroup relationships, where a third-country firm, including through an entity acting on its behalf or having close links with such third-country firm or any other person acting on behalf of such entity, solicits clients or prospective clients in the Union, regardless of the means of communication used for the solicitation, promotion or advertising in the Union, it shall not be deemed to be a service provided on the client's own exclusive initiative.

The second subparagraph shall apply notwithstanding any contractual clause or disclaimer purporting to state otherwise, including any clause or disclaimer that the provision of services by a third-country firm is deemed to be a service provided on the client's own exclusive initiative.

2. A client's own exclusive initiative as referred to in paragraph 1 shall not entitle a third-country firm to market new types of crypto-assets or crypto-asset services to that client.

3. ESMA shall by 30 December 2024 issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the situations in which a third-country firm is deemed to solicit clients established or situated in the Union.

In order to foster convergence and promote consistent supervision in respect of the risk of abuse of this Article, ESMA shall also issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 on supervision practices to detect and prevent circumvention of this Regulation.

Article 62

Application for authorisation as a crypto-asset service provider

1. Legal persons or other undertakings that intend to provide crypto-asset services shall submit their application for an authorisation as a crypto-asset service provider to the competent authority of their home Member State.
2. The application referred to in paragraph 1 shall contain all of the following information:
 - (a) the name, including the legal name and any other commercial name used, the legal entity identifier of the applicant crypto-asset service provider, the website operated by that provider, a contact email address, a contact telephone number and its physical address;
 - (b) the legal form of the applicant crypto-asset service provider;
 - (c) the articles of association of the applicant crypto-asset service provider, where applicable;
 - (d) a programme of operations, setting out the types of crypto-asset services that the applicant crypto-asset service provider intends to provide, including where and how those services are to be marketed;
 - (e) proof that the applicant crypto-asset service provider meets the requirements for prudential safeguards set out in Article 67;
 - (f) a description of the applicant crypto-asset service provider's governance arrangements;
 - (g) proof that members of the management body of the applicant crypto-asset service provider are of sufficiently good reputation and possess the appropriate knowledge, skills and experience to manage that provider;
 - (h) the identity of any shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant crypto-asset service provider and the amounts of those holdings, as well as proof that those persons are of sufficiently good reputation;
 - (i) a description of the applicant crypto-asset service provider's internal control mechanisms, policies and procedures to identify, assess and manage risks, including money laundering and terrorist financing risks, and business continuity plan;
 - (j) the technical documentation of the ICT systems and security arrangements, and a description thereof in non-technical language;
 - (k) a description of the procedure for the segregation of clients' crypto-assets and funds;
 - (l) a description of the applicant crypto-asset service provider's complaints-handling procedures;
 - (m) where the applicant crypto-asset service provider intends to provide custody and administration of crypto-assets on behalf of clients, a description of the custody and administration policy;
 - (n) where the applicant crypto-asset service provider intends to operate a trading platform for crypto-assets, a description of the operating rules of the trading platform and of the procedure and system to detect market abuse;
 - (o) where the applicant crypto-asset service provider intends to exchange crypto-assets for funds or other crypto-assets, a description of the commercial policy, which shall be non-discriminatory, governing the

relationship with clients as well as a description of the methodology for determining the price of the crypto-assets that the applicant crypto-asset service provider proposes to exchange for funds or other crypto-assets;

(p) where the applicant crypto-asset service provider intends to execute orders for crypto-assets on behalf of clients, a description of the execution policy;

(q) where the applicant crypto-asset service provider intends to provide advice on crypto-assets or portfolio management of crypto-assets, proof that the natural persons giving advice on behalf of the applicant crypto-asset service provider or managing portfolios on behalf of the applicant crypto-asset service provider have the necessary knowledge and expertise to fulfil their obligations;

(r) where the applicant crypto-asset service provider intends to provide transfer services for crypto-assets on behalf of clients, information on the manner in which such transfer services will be provided;

(s) the type of crypto-asset to which the crypto-asset service relates.

3. For the purposes of paragraph 2, points (g) and (h), an applicant crypto-asset service provider shall provide proof of all of the following:

(a) for all members of the management body of the applicant crypto-asset service provider, the absence of a criminal record in respect of convictions and the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering, and counter-terrorist financing, to fraud or to professional liability;

(b) that the members of the management body of the applicant crypto-asset service provider collectively possess the appropriate knowledge, skills and experience to manage the crypto-asset service provider and that those persons are required to commit sufficient time to perform their duties;

(c) for all shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant crypto-asset service provider, the absence of a criminal record in respect of convictions or the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability.

4. Competent authorities shall not require an applicant crypto-asset service provider to provide any information referred to in paragraphs 2 and 3 of this Article that they have already received under the respective authorisation procedures in accordance with Directive 2009/110/EC, 2014/65/EU or (EU) 2015/2366, or pursuant to national law applicable to crypto-asset services prior to 29 June 2023, provided that such previously submitted information or documents are still up-to-date.

5. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards to further specify the information referred to in paragraphs 2 and 3.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

6. ESMA, in close cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 63

Assessment of the application for authorisation and grant or refusal of authorisation

1. Competent authorities shall promptly, and in any event within five working days of receipt of an application under Article 62(1), acknowledge receipt thereof in writing to the applicant crypto-asset service provider.
2. Competent authorities shall, within 25 working days of receipt of an application under Article 62(1), assess whether that application is complete by checking that the information listed in Article 62(2) has been submitted.

Where the application is not complete, competent authorities shall set a deadline by which the applicant crypto-asset service provider is to provide any missing information.

3. Competent authorities may refuse to review applications where such applications remain incomplete after the expiry of the deadline set by them in accordance with paragraph 2, second subparagraph.

4. Once an application is complete, competent authorities shall promptly notify the applicant crypto-asset service provider thereof.

5. Before granting or refusing authorisation as a crypto-asset service provider, competent authorities shall consult the competent authorities of another Member State where the applicant crypto-asset service provider is in one of the following positions in relation to a credit institution, a central securities depository, an investment firm, a market operator, a UCITS management company, an alternative investment fund manager, a payment institution, an insurance undertaking, an electronic money institution or an institution for occupational retirement provision, authorised in that other Member State:

- (a) it is its subsidiary;
- (b) it is a subsidiary of the parent undertaking of that entity; or
- (c) it is controlled by the same natural or legal persons who control that entity.

6. Before granting or refusing an authorisation as a crypto-asset service provider, competent authorities:

- (a) may consult the competent authorities for anti-money laundering and counter-terrorist financing, and financial intelligence units, in order to verify that the applicant crypto-asset service provider has not been the subject of an investigation into conduct relating to money laundering or terrorist financing;
- (b) shall ensure that the applicant crypto-asset service provider that operates establishments or relies on third parties established in high-risk third countries identified pursuant to Article 9 of Directive (EU) 2015/849 complies with the provisions of national law transposing Articles 26(2), 45(3) and 45(5) of that Directive;
- (c) shall, where appropriate, ensure that the applicant crypto-asset service provider has put in place appropriate procedures to comply with the provisions of national law transposing Article 18a(1) and (3) of Directive (EU) 2015/849.

7. Where close links exist between the applicant crypto-asset service provider and other natural or legal persons, competent authorities shall grant authorisation only if those links do not prevent the effective exercise of their supervisory functions.

8. Competent authorities shall refuse authorisation if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the applicant crypto-asset service

provider has close links, or difficulties involved in their enforcement, prevent the effective exercise of their supervisory functions.

9. Competent authorities shall, within 40 working days from the date of receipt of a complete application, assess whether the applicant crypto-asset service provider complies with this Title and shall adopt a fully reasoned decision granting or refusing an authorisation as a crypto-asset service provider. Competent authorities shall notify the applicant of their decision within five working days of the date of that decision. That assessment shall take into account the nature, scale and complexity of the crypto-asset services that the applicant crypto-asset service provider intends to provide.

10. Competent authorities shall refuse authorisation as a crypto-asset service provider where there are objective and demonstrable grounds that:

(a) the management body of the applicant crypto-asset service provider poses a threat to its effective, sound and prudent management and business continuity, and to the adequate consideration of the interest of its clients and the integrity of the market, or exposes the applicant crypto-asset service provider to a serious risk of money laundering or terrorist financing;

(b) the members of the management body of the applicant crypto-asset service provider do not meet the criteria set out in Article 68(1);

(c) the shareholders or members, whether direct or indirect, that have qualifying holdings in the applicant crypto-asset service provider do not meet the criteria of sufficiently good repute set out in Article 68(2);

(d) the applicant crypto-asset service provider fails to meet or is likely to fail to meet any of the requirements of this Title.

11. ESMA and EBA shall jointly issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 and Article 16 of Regulation (EU) No 1093/2010, respectively, on the assessment of the suitability of the members of the management body of the applicant crypto-asset service provider and of the shareholders or members, whether direct or indirect, that have qualifying holdings in the applicant crypto-asset service provider.

ESMA and EBA shall issue the guidelines referred to in the first subparagraph by 30 June 2024.

12. Competent authorities may, during the assessment period provided for in paragraph 9, and no later than on the 20th working day of that period, request any further information that is necessary to complete the assessment. Such request shall be made in writing to the applicant crypto-asset service provider and shall specify the additional information needed.

The assessment period under paragraph 9 shall be suspended for the period between the date of request for missing information by the competent authorities and the receipt by them of a response thereto from the applicant crypto-asset service provider. The suspension shall not exceed 20 working days. Any further requests by the competent authorities for completion or clarification of the information shall be at their discretion but shall not result in a suspension of the assessment period under paragraph 9.

13. Competent authorities shall, within two working days of granting authorisation, communicate to ESMA the information specified in Article 109(5). Competent authorities shall also inform ESMA of any refusals of authorisations. ESMA shall make the information referred to in Article 109(5) available in the register referred to in that Article by the starting date of the provision of crypto-asset services.

Article 64

Withdrawal of authorisation of a crypto-asset service provider

1. Competent authorities shall withdraw the authorisation of a crypto-asset service provider if the crypto-asset service provider does any of the following:
 - (a) has not used its authorisation within 12 months of the date of the authorisation;
 - (b) has expressly renounced its authorisation;
 - (c) has not provided crypto-asset services for nine consecutive months;
 - (d) has obtained its authorisation by irregular means, such as by making false statements in its application for authorisation;
 - (e) no longer meets the conditions under which the authorisation was granted and has not taken the remedial action requested by the competent authority within the specified timeframe;
 - (f) fails to have in place effective systems, procedures and arrangements to detect and prevent money laundering and terrorist financing in accordance with Directive (EU) 2015/849;
 - (g) has seriously infringed this Regulation, including the provisions relating to the protection of holders of crypto-assets or of clients of crypto-asset service providers, or market integrity.
2. Competent authorities may withdraw authorisation as a crypto-asset service provider in any of the following situations:
 - (a) the crypto-asset service provider has infringed the provisions of national law transposing Directive (EU) 2015/849;
 - (b) the crypto-asset service provider has lost its authorisation as a payment institution or its authorisation as an electronic money institution, and that crypto-asset service provider has failed to remedy the situation within 40 calendar days.
3. Where a competent authority withdraws an authorisation as a crypto-asset service provider, it shall notify ESMA and the single points of contact of the host Member States without undue delay. ESMA shall make such information available in the register referred to in Article 109.
4. Competent authorities may limit the withdrawal of authorisation to a particular crypto-asset service.
5. Before withdrawing an authorisation as a crypto-asset service provider, competent authorities shall consult the competent authority of another Member State where the crypto-asset service provider concerned is:
 - (a) a subsidiary of a crypto-asset service provider authorised in that other Member State;
 - (b) a subsidiary of the parent undertaking of a crypto-asset service provider authorised in that other Member State;
 - (c) controlled by the same natural or legal persons who control a crypto-asset service provider authorised in that other Member State.

6. Before withdrawing an authorisation as a crypto-asset service provider, competent authorities may consult the authority competent for supervising compliance of the crypto-asset service provider with the rules on anti-money laundering and counter-terrorist financing.
7. EBA, ESMA and any competent authority of a host Member State may at any time request that the competent authority of the home Member State examine whether the crypto-asset service provider still complies with the conditions under which the authorisation was granted, when there are grounds to suspect it may no longer be the case.
8. Crypto-asset service providers shall establish, implement and maintain adequate procedures ensuring the timely and orderly transfer of their clients' crypto-assets and funds to another crypto-asset service provider when an authorisation is withdrawn.

Article 65

Cross-border provision of crypto-asset services

1. A crypto-asset service provider that intends to provide crypto-asset services in more than one Member State shall submit the following information to the competent authority of the home Member State:
 - (a) a list of the Member States in which the crypto-asset service provider intends to provide crypto-asset services;
 - (b) the crypto-asset services that the crypto-asset service provider intends to provide on a cross-border basis;
 - (c) the starting date of the intended provision of the crypto-asset services;
 - (d) a list of all other activities provided by the crypto-asset service provider not covered by this Regulation.
2. The competent authority of the home Member State shall, within 10 working days of receipt of the information referred to in paragraph 1, communicate that information to the single points of contact of the host Member States, to ESMA and to EBA.
3. The competent authority of the Member State that granted authorisation shall inform the crypto-asset service provider concerned of the communication referred to in paragraph 2 without delay.
4. The crypto-asset service provider may begin to provide crypto-asset services in a Member State other than its home Member State from the date of receipt of the communication referred to in paragraph 3 or at the latest from the 15th calendar day after having submitted the information referred to in paragraph 1.

CHAPTER 2

Obligations for all crypto-asset service providers

Article 66

Obligation to act honestly, fairly and professionally in the best interests of clients

1. Crypto-asset service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.
2. Crypto-asset service providers shall provide their clients with information that is fair, clear and not misleading, including in marketing communications, which shall be identified as such. Crypto-asset service providers shall not, deliberately or negligently, mislead a client in relation to the real or perceived advantages of any crypto-assets.
3. Crypto-asset service providers shall warn clients of the risks associated with transactions in crypto-assets.

When operating a trading platform for crypto-assets, exchanging crypto-assets for funds or other crypto-assets, providing advice on crypto-assets or providing portfolio management on crypto-assets, crypto-asset service providers shall provide their clients with hyperlinks to any crypto-asset white papers for the crypto-assets in relation to which they are providing those services.

4. Crypto-asset service providers shall make their policies on pricing, costs and fees publicly available, in a prominent place on their website.
5. Crypto-asset service providers shall make publicly available, in a prominent place on their website, information related to the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue each crypto-asset in relation to which they provide services. That information may be obtained from the crypto-asset white papers.
6. ESMA, in cooperation with EBA, shall develop draft regulatory technical standards on the content, methodologies and presentation of information referred to in paragraph 5 in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

When developing the draft regulatory technical standards referred to in the first subparagraph, ESMA shall consider the various types of consensus mechanisms used to validate crypto-asset transactions, their incentive structures and the use of energy, renewable energy and natural resources, the production of waste and greenhouse gas emissions. ESMA shall update the regulatory technical standards in the light of regulatory and technological developments.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 67

Prudential requirements

1. Crypto-asset service providers shall, at all times, have in place prudential safeguards equal to an amount of at least the higher of the following:
 - (a) the amount of permanent minimum capital requirements indicated in Annex IV, depending on the type of the crypto-asset services provided;
 - (b) one quarter of the fixed overheads of the preceding year, reviewed annually.
2. Crypto-asset service providers that have not been in business for one year from the date on which they began providing services shall use, for the calculation referred to in paragraph 1, point (b), the projected fixed overheads included in their projections for the first 12 months of service provision, as submitted with their application for authorisation.
3. For the purposes of paragraph 1, point (b), crypto-asset service providers shall calculate their fixed overheads for the preceding year, using figures resulting from the applicable accounting framework, by subtracting the following items from the total expenses after distribution of profits to shareholders or members in their most recently audited annual financial statements or, where audited statements are not available, in annual financial statements validated by national supervisors:
 - (a) staff bonuses and other remuneration, to the extent that those bonuses and that remuneration depend on a net profit of the crypto-asset service providers in the relevant year;
 - (b) employees', directors' and partners' shares in profits;
 - (c) other appropriations of profits and other variable remuneration, to the extent that they are fully discretionary;
 - (d) non-recurring expenses from non-ordinary activities.
4. The prudential safeguards referred to in paragraph 1 shall take any of the following forms or a combination thereof:
 - (a) own funds, consisting of Common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions pursuant to Articles 46 and 48 of that Regulation;
 - (b) an insurance policy covering the territories of the Union where crypto-asset services are provided or a comparable guarantee.
5. The insurance policy referred to in paragraph 4, point (b), shall be disclosed to the public on the crypto-asset service provider's website and shall have at least the following characteristics:
 - (a) it has an initial term of not less than one year;
 - (b) the notice period for its cancellation is at least 90 days;
 - (c) it is taken out from an undertaking authorised to provide insurance, in accordance with Union or national law;
 - (d) it is provided by a third-party entity.

6. The insurance policy referred to in paragraph 4, point (b), shall include coverage against the risk of all of the following:

- (a) loss of documents;
- (b) misrepresentations or misleading statements made;
- (c) acts, errors or omissions resulting in a breach of:
 - (i) legal and regulatory obligations;
 - (ii) the obligation to act honestly, fairly and professionally towards clients;
 - (iii) obligations of confidentiality;
- (d) failure to establish, implement and maintain appropriate procedures to prevent conflicts of interest;
- (e) losses arising from business disruption or system failures;
- (f) where applicable to the business model, gross negligence in the safeguarding of clients' crypto-assets and funds;
- (g) liability of the crypto-asset service providers towards clients pursuant to Article 75(8).

Article 68

Governance arrangements

1. Members of the management body of crypto-asset service providers shall be of sufficiently good reputation and possess the appropriate knowledge, skills and experience, both individually and collectively, to perform their duties. In particular, members of the management body of crypto-asset service providers shall not have been convicted of offences relating to money laundering or terrorist financing or of any other offences that would affect their good reputation. They shall also demonstrate that they are capable of committing sufficient time to effectively perform their duties.

2. Shareholders and members, whether direct or indirect, that have qualifying holdings in crypto-asset service providers shall be of sufficiently good reputation and, in particular, shall not have been convicted of offences relating to money laundering or terrorist financing or of any other offences that would affect their good reputation.

3. Where the influence exercised by the shareholders or members, whether direct or indirect, that have qualifying holdings in a crypto-asset service provider is likely to be prejudicial to the sound and prudent management of that crypto-asset service provider, competent authorities shall take appropriate measures to address those risks.

Such measures may include applications for judicial orders or the imposition of penalties against directors and those responsible for management, or the suspension of the exercise of the voting rights attaching to the shares held by the shareholders or members, whether direct or indirect, that have the qualifying holdings.

4. Crypto-asset service providers shall adopt policies and procedures that are sufficiently effective to ensure compliance with this Regulation.

5. Crypto-asset service providers shall employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them, taking into account the scale, nature and range of crypto-asset services provided.

6. The management body of crypto-asset service providers shall assess and periodically review the effectiveness of the policy arrangements and procedures put in place to comply with Chapters 2 and 3 of this Title and take appropriate measures to address any deficiencies in that respect.

7. Crypto-asset service providers shall take all reasonable steps to ensure continuity and regularity in the performance of their crypto-asset services. To that end, crypto-asset service providers shall employ appropriate and proportionate resources and procedures, including resilient and secure ICT systems as required by Regulation (EU) 2022/2554.

Crypto-asset service providers shall establish a business continuity policy, which shall include ICT business continuity plans as well as ICT response and recovery plans set up pursuant to Articles 11 and 12 of Regulation (EU) 2022/2554 that aim to ensure, in the case of an interruption to their ICT systems and procedures, the preservation of essential data and functions and the maintenance of crypto-asset services or, where that is not possible, the timely recovery of such data and functions and the timely resumption of crypto-asset services.

8. Crypto-asset service providers shall have in place mechanisms, systems and procedures as required by Regulation (EU) 2022/2554, as well as effective procedures and arrangements for risk assessment, to comply with the provisions of national law transposing Directive (EU) 2015/849. They shall monitor and, on a regular basis, evaluate the adequacy and effectiveness of those mechanisms, systems and procedures, taking into account the scale, the nature and range of crypto-asset services provided, and shall take appropriate measures to address any deficiencies in that respect.

Crypto-asset service providers shall have systems and procedures to safeguard the availability, authenticity, integrity and confidentiality of data pursuant to Regulation (EU) 2022/2554.

9. Crypto-asset service providers shall arrange for records to be kept of all crypto-asset services, activities, orders, and transactions undertaken by them. Those records shall be sufficient to enable competent authorities to fulfil their supervisory tasks and to take enforcement measures, and in particular to ascertain whether crypto-asset service providers have complied with all obligations including those with respect to clients or prospective clients and to the integrity of the market.

The records kept pursuant to the first subparagraph shall be provided to clients upon request and shall be kept for a period of five years and, where requested by the competent authority before five years have elapsed, for a period of up to seven years.

10. ESMA shall develop draft regulatory technical standards to further specify:

- (a) the measures ensuring continuity and regularity in the performance of the crypto-asset services referred to in paragraph 7;
- (b) the records to be kept of all crypto-asset services, activities, orders and transactions undertaken referred to in paragraph 9.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 69

Information to competent authorities

Crypto-asset service providers shall notify their competent authority without delay of any changes to their management body, prior to the exercise of activities by any new members, and shall provide their competent authority with all of the necessary information to assess compliance with Article 68.

Article 70

Safekeeping of clients' crypto-assets and funds

1. Crypto-asset service providers that hold crypto-assets belonging to clients or the means of access to such crypto-assets shall make adequate arrangements to safeguard the ownership rights of clients, especially in the event of the crypto-asset service provider's insolvency, and to prevent the use of clients' crypto-assets for their own account.
2. Where their business models or the crypto-asset services require holding clients' funds other than e-money tokens, crypto-asset service providers shall have adequate arrangements in place to safeguard the ownership rights of clients and prevent the use of clients' funds for their own account.
3. Crypto-asset service providers shall, by the end of the business day following the day on which clients' funds other than e-money tokens were received, place those funds with a credit institution or a central bank.

Crypto-asset service providers shall take all necessary steps to ensure that clients' funds other than e-money tokens held with a credit institution or a central bank are held in an account separately identifiable from any accounts used to hold funds belonging to the crypto-asset service providers.

4. Crypto-asset service providers may themselves, or through a third party, provide payment services related to the crypto-asset service they offer provided that the crypto-asset service provider itself, or the third party, is authorised to provide those services under Directive (EU) 2015/2366.

Where payment services are provided, crypto-asset service providers shall inform their clients of all of the following:

- (a) the nature and terms and conditions of those services, including references to the applicable national law and to the rights of clients;
- (b) whether those services are provided by them directly or by a third party.

5. Paragraphs 2 and 3 of this Article shall not apply to crypto-asset service providers that are electronic money institutions, payment institutions or credit institutions.

Article 71

Complaints-handling procedures

1. Crypto-asset service providers shall establish and maintain effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients and shall publish descriptions of those procedures.
2. Clients shall be able to file complaints free of charge with crypto-asset service providers.
3. Crypto-asset service providers shall inform clients of the possibility of filing a complaint. Crypto-asset service providers shall make available to clients a template for filing complaints and shall keep a record of all complaints received and any measures taken in response thereto.
4. Crypto-asset service providers shall investigate all complaints in a timely and fair manner and communicate the outcome of such investigations to their clients within a reasonable period.
5. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards to further specify the requirements, templates and procedures for handling complaints.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 72

Identification, prevention, management and disclosure of conflicts of interest

1. Crypto-asset service providers shall implement and maintain effective policies and procedures, taking into account the scale, the nature and range of crypto-asset services provided, to identify, prevent, manage and disclose conflicts of interest between:

(a) themselves and:

(i) their shareholders or members;

(ii) any person directly or indirectly linked to the crypto-asset service providers or their shareholders or members by control;

(iii) members of their management body;

(iv) their employees; or

(v) their clients; or

(b) two or more clients whose mutual interests conflict.

2. Crypto-asset service providers shall, in a prominent place on their website, disclose to their clients and prospective clients the general nature and sources of conflicts of interest referred to in paragraph 1 and the steps taken to mitigate them.

3. The disclosure referred to in paragraph 2 shall be made in an electronic format and shall include sufficient detail, taking into account the nature of each client, in order to enable each client to take an informed decision about the crypto-asset service in the context of which the conflicts of interest arise.

4. Crypto-asset service providers shall assess and, at least annually, review their policy on conflicts of interest and take all appropriate measures to address any deficiencies in that respect.

5. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards to further specify:

(a) the requirements for the policies and procedures referred to in paragraph 1, taking into account the scale, the nature and the range of crypto-asset services provided;

(b) the details and methodology for the content of the disclosure referred to in paragraph 2.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 73

Outsourcing

1. Crypto-asset service providers that outsource services or activities to third parties for the performance of operational functions shall take all reasonable steps to avoid additional operational risk. They shall remain fully responsible for discharging all of their obligations pursuant to this Title and shall ensure at all times that the following conditions are met:

- (a) outsourcing does not result in the delegation of the responsibility of the crypto-asset service providers;
- (b) outsourcing does not alter the relationship between the crypto-asset service providers and their clients, nor the obligations of the crypto-asset service providers towards their clients;
- (c) outsourcing does not alter the conditions for the authorisation of the crypto-asset service providers;
- (d) third parties involved in the outsourcing cooperate with the competent authority of the crypto-asset service providers' home Member State and the outsourcing does not prevent the exercise of the supervisory functions of competent authorities, including on-site access to acquire any relevant information needed to fulfil those functions;
- (e) crypto-asset service providers retain the expertise and resources necessary for evaluating the quality of the services provided, for supervising the outsourced services effectively and for managing the risks associated with the outsourcing on an ongoing basis;
- (f) crypto-asset service providers have direct access to the relevant information of the outsourced services;
- (g) crypto-asset service providers ensure that third parties involved in the outsourcing meet the data protection standards of the Union.

For the purposes of point (g) of the first subparagraph, crypto-asset service providers are responsible for ensuring that the data protection standards are set out in the written agreements referred to in paragraph 3.

2. Crypto-asset service providers shall have a policy on their outsourcing, including on contingency plans and exit strategies, taking into account the scale, the nature and the range of crypto-asset services provided.

3. Crypto-asset service providers shall define in a written agreement their rights and obligations and those of the third parties to which they are outsourcing services or activities. Outsourcing agreements shall give crypto-asset service providers the right to terminate those agreements.

4. Crypto-asset service providers and third parties shall, upon request, make available to the competent authorities and other relevant authorities all information necessary to enable those authorities to assess compliance of the outsourced activities with the requirements of this Title.

Article 74

Orderly wind-down of crypto-asset service providers

Crypto-asset service providers that provide the services referred to in Articles 75 to 79 shall have in place a plan that is appropriate to support an orderly wind-down of their activities under applicable national law, including the continuity or recovery of any critical activities performed by those service providers. That plan shall demonstrate the ability of crypto-asset service providers to carry out an orderly wind-down without causing undue economic harm to their clients.

CHAPTER 3

Obligations in respect of specific crypto-asset services

Article 75

Providing custody and administration of crypto-assets on behalf of clients

1. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall conclude an agreement with their clients to specify their duties and their responsibilities. Such an agreement shall include at least the following:

- (a) the identity of the parties to the agreement;
- (b) the nature of the crypto-asset service provided and a description of that service;
- (c) the custody policy;
- (d) the means of communication between the crypto-asset service provider and the client, including the client's authentication system;
- (e) a description of the security systems used by the crypto-asset service provider;
- (f) the fees, costs and charges applied by the crypto-asset service provider;
- (g) the applicable law.

2. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall keep a register of positions, opened in the name of each client, corresponding to each client's rights to the crypto-assets. Where relevant, crypto-asset service providers shall record as soon as possible in that register any movements following instructions from their clients. In such cases, their internal procedures shall ensure that any movement affecting the registration of the crypto-assets is evidenced by a transaction regularly registered in the client's register of positions.

3. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall establish a custody policy with internal rules and procedures to ensure the safekeeping or the control of such crypto-assets, or the means of access to the crypto-assets.

The custody policy referred to in the first subparagraph shall minimise the risk of a loss of clients' crypto-assets or the rights related to those crypto-assets or the means of access to the crypto-assets due to fraud, cyber threats or negligence.

A summary of the custody policy shall be made available to clients at their request in an electronic format.

4. Where applicable, crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall facilitate the exercise of the rights attached to the crypto-assets. Any event likely to create or modify the rights of a client shall immediately be recorded in the client's register of positions.

Where there are changes to the underlying distributed ledger technology or any other event likely to create or modify a client's rights, the client shall be entitled to any crypto-assets or any rights newly created on the basis and to the extent of the client's positions at the time of the occurrence of that change or event, except when a valid agreement signed with the crypto-asset service provider providing custody and administration of crypto-

assets on behalf of clients pursuant to paragraph 1 prior to that change or event expressly provides otherwise.

5. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall provide their clients, at least once every three months and at the request of the client concerned, with a statement of position of the crypto-assets recorded in the name of those clients. That statement of position shall be made in an electronic format. The statement of position shall identify the crypto-assets concerned, their balance, their value and the transfer of crypto-assets made during the period concerned.

Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall provide their clients as soon as possible with any information about operations on crypto-assets that require a response from those clients.

6. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall ensure that necessary procedures are in place to return crypto-assets held on behalf of their clients, or the means of access, as soon as possible to those clients.

7. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall segregate holdings of crypto-assets on behalf of their clients from their own holdings and ensure that the means of access to crypto-assets of their clients is clearly identified as such. They shall ensure that, on the distributed ledger, their clients' crypto-assets are held separately from their own crypto-assets.

The crypto-assets held in custody shall be legally segregated from the crypto-asset service provider's estate in the interest of the clients of the crypto-asset service provider in accordance with applicable law, so that creditors of the crypto-asset service provider have no recourse to crypto-assets held in custody by the crypto-asset service provider, in particular in the event of insolvency.

Crypto-asset service provider shall ensure that the crypto-assets held in custody are operationally segregated from the crypto-asset service provider's estate.

8. Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients shall be liable to their clients for the loss of any crypto-assets or of the means of access to the crypto-assets as a result of an incident that is attributable to them. The liability of the crypto-asset service provider shall be capped at the market value of the crypto-asset that was lost, at the time the loss occurred.

Incidents not attributable to the crypto-asset service provider include any event in respect of which the crypto-asset service provider demonstrates that it occurred independently of the provision of the relevant service, or independently of the operations of the crypto-asset service provider, such as a problem inherent in the operation of the distributed ledger that the crypto-asset service provider does not control.

9. If crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients make use of other crypto-asset service providers of that service, they shall only make use of crypto-asset service providers authorised in accordance with Article 59.

Crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients and that make use of other crypto-asset service providers of that service shall inform their clients thereof.

Article 76

Operation of a trading platform for crypto-assets

1. Crypto-asset service providers operating a trading platform for crypto-assets shall lay down, maintain and implement clear and transparent operating rules for the trading platform. Those operating rules shall at least:

- (a) set the approval processes, including customer due diligence requirements commensurate to the money laundering or terrorist financing risk presented by the applicant in accordance with Directive (EU) 2015/849, that are applied before admitting crypto-assets to the trading platform;
- (b) define exclusion categories, if any, of the types of crypto-assets that are not admitted to trading;
- (c) set out the policies, procedures and the level of fees, if any, for the admission to trading;
- (d) set objective, non-discriminatory rules and proportionate criteria for participation in the trading activities, which promote fair and open access to the trading platform for clients willing to trade;
- (e) set non-discretionary rules and procedures to ensure fair and orderly trading and objective criteria for the efficient execution of orders;
- (f) set conditions for crypto-assets to remain accessible for trading, including liquidity thresholds and periodic disclosure requirements;
- (g) set conditions under which trading of crypto-assets can be suspended;
- (h) set procedures to ensure efficient settlement of both crypto-assets and funds.

For the purposes of point (a) of the first subparagraph, the operating rules shall clearly state that a crypto-asset is not to be admitted to trading where no corresponding crypto-asset white paper has been published in the cases required by this Regulation.

2. Before admitting a crypto-asset to trading, crypto-asset service providers operating a trading platform for crypto-assets shall ensure that the crypto-asset complies with the operating rules of the trading platform and shall assess the suitability of the crypto-asset concerned. When assessing the suitability of a crypto-asset, the crypto-asset service providers operating a trading platform shall evaluate, in particular, the reliability of the technical solutions used and the potential association to illicit or fraudulent activities, taking into account the experience, track record and reputation of the issuer of those crypto-assets and its development team. The crypto-asset service providers operating a trading platform shall also assess the suitability of the crypto-assets other than asset-referenced tokens or e-money tokens referred to in Article 4(3), first subparagraph, points (a) to (d).

3. The operating rules of the trading platform for crypto-assets shall prevent the admission to trading of crypto-assets that have an inbuilt anonymisation function unless the holders of those crypto-assets and their transaction history can be identified by the crypto-asset service providers operating a trading platform for crypto-assets.

4. The operating rules referred to in paragraph 1 shall be drawn up in an official language of the home Member State, or in a language customary in the sphere of international finance.

If the operation of a trading platform for crypto-assets is provided in another Member State, the operating rules referred to in paragraph 1 shall be drawn up in an official language of the host Member State, or in a language customary in the sphere of international finance.

5. Crypto-asset service providers operating a trading platform for crypto-assets shall not deal on own account on the trading platform for crypto-assets they operate, including where they provide the exchange of crypto-assets for funds or other crypto-assets.

6. Crypto-asset service providers operating a trading platform for crypto-assets shall only be allowed to engage in matched principal trading where the client has consented to that process. Crypto-asset service providers shall provide the competent authority with information explaining their use of matched principal trading. The competent authority shall monitor the engagement of crypto-asset service providers in matched principal trading, and ensure that their engagement in matched principal trading continues to fall within the definition of such trading and does not give rise to conflicts of interest between the crypto-asset service providers and their clients.

7. Crypto-asset service providers operating a trading platform for crypto-assets shall have in place effective systems, procedures and arrangements to ensure that their trading systems:

- (a) are resilient;
- (b) have sufficient capacity to deal with peak order and message volumes;
- (c) are able to ensure orderly trading under conditions of severe market stress;
- (d) are able to reject orders that exceed pre-determined volume and price thresholds or are clearly erroneous;
- (e) are fully tested to ensure that the conditions under points (a) to (d) are met;
- (f) are subject to effective business continuity arrangements to ensure the continuity of their services if there is any failure of the trading system;
- (g) are able to prevent or detect market abuse;
- (h) are sufficiently robust to prevent their abuse for the purposes of money laundering or terrorist financing.

8. Crypto-asset service providers operating a trading platform for crypto-assets shall inform their competent authority when they identify cases of market abuse or attempted market abuse occurring on or through their trading systems.

9. Crypto-asset service providers operating a trading platform for crypto-assets shall make public any bid and ask prices and the depth of trading interests at those prices which are advertised for crypto-assets through their trading platforms. The crypto-asset service providers concerned shall make that information available to the public on a continuous basis during trading hours.

10. Crypto-asset service providers operating a trading platform for crypto-assets shall make public the price, volume and time of the transactions executed in respect of crypto-assets traded on their trading platforms. They shall make those details for all such transactions public as close to real-time as is technically possible.

11. Crypto-asset service providers operating a trading platform for crypto-assets shall make the information published in accordance with paragraphs 9 and 10 available to the public on a reasonable commercial basis and ensure non-discriminatory access to that information. That information shall be made available free of charge 15 minutes after publication in a machine-readable format and it shall remain published for at least two years.

12. Crypto-asset service providers operating a trading platform for crypto-assets shall initiate the final settlement of a crypto-asset transaction on the distributed ledger within 24 hours of the transaction being

executed on the trading platform or, in the case of transactions settled outside the distributed ledger, by the closing of the day at the latest.

13. Crypto-asset service providers operating a trading platform for crypto-assets shall ensure that their fee structures are transparent, fair and non-discriminatory and that they do not create incentives to place, modify or cancel orders or to execute transactions in a way that contributes to disorderly trading conditions or market abuse as referred to in Title VI.

14. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain resources and have back-up facilities in place to enable them to report to their competent authority at all times.

15. Crypto-asset service providers operating a trading platform shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in crypto-assets that are advertised through their systems, or give the competent authority access to the order book so that the competent authority is able to monitor the trading activity. That relevant data shall contain the characteristics of the order, including those that link an order with the executed transactions that stem from that order.

16. ESMA shall develop draft regulatory technical standards to further specify:

- (a) the manner in which transparency data, including the level of disaggregation of the data to be made available to the public as referred to in paragraphs 1, 9 and 10, is to be presented;
- (b) the content and format of order book records to be maintained as specified in paragraph 15.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 77

Exchange of crypto-assets for funds or other crypto-assets

1. Crypto-asset service providers exchanging crypto-assets for funds or other crypto-assets shall establish a non-discriminatory commercial policy that indicates, in particular, the type of clients they agree to transact with and the conditions that shall be met by such clients.
2. Crypto-asset service providers exchanging crypto-assets for funds or other crypto-assets shall publish a firm price of the crypto-assets or a method for determining the price of the crypto-assets that they propose to exchange for funds or other crypto-assets, and any applicable limit determined by that crypto-asset service provider on the amount to be exchanged.
3. Crypto-asset service providers exchanging crypto-assets for funds or other crypto-assets shall execute client orders at the prices displayed at the time when the order for exchange is final. Crypto-asset service providers shall inform their clients of the conditions for their order to be deemed final.
4. Crypto-asset service providers exchanging crypto-assets for funds or other crypto-assets shall publish information about the transactions concluded by them, such as transaction volumes and prices.

Article 78

Execution of orders for crypto-assets on behalf of clients

1. Crypto-asset service providers executing orders for crypto-assets on behalf of clients shall take all necessary steps to obtain, while executing orders, the best possible result for their clients taking into account factors of price, costs, speed, likelihood of execution and settlement, size, nature, conditions of custody of the crypto-assets or any other consideration relevant to the execution of the order.

Notwithstanding the first subparagraph, crypto-asset service providers executing orders for crypto-assets on behalf of clients shall not be required to take the necessary steps as referred to in the first subparagraph in cases where they execute orders for crypto-assets following specific instructions given by its clients.

2. To ensure compliance with paragraph 1, crypto-asset service providers executing orders for crypto-assets on behalf of clients shall establish and implement effective execution arrangements. In particular, they shall establish and implement an order execution policy to allow them to comply with paragraph 1. The order execution policy shall, amongst others, provide for the prompt, fair and expeditious execution of client orders and prevent the misuse by the crypto-asset service providers' employees of any information relating to client orders.

3. Crypto-asset service providers executing orders for crypto-assets on behalf of clients shall provide appropriate and clear information to their clients on their order execution policy referred to in paragraph 2 and any significant change thereto. That information shall explain clearly, in sufficient detail and in a way that can be easily understood by clients, how client orders are to be executed by crypto-asset service providers. Crypto-asset service providers shall obtain prior consent from each client regarding the order execution policy.

4. Crypto-asset service providers executing orders for crypto-assets on behalf of clients shall be able to demonstrate to their clients, at their request, that they have executed their orders in accordance with their order execution policy and shall be able to demonstrate to the competent authority, at the latter's request, their compliance with this Article.

5. Where the order execution policy provides for the possibility that client orders might be executed outside a trading platform, crypto-asset service providers executing orders for crypto-assets on behalf of clients shall inform their clients about that possibility and shall obtain the prior express consent of their clients before proceeding to execute their orders outside a trading platform, either in the form of a general agreement or with respect to individual transactions.

6. Crypto-asset service providers executing orders for crypto-assets on behalf of clients shall monitor the effectiveness of their order execution arrangements and order execution policy in order to identify and, where appropriate, correct any deficiencies in that respect. In particular, they shall assess, on a regular basis, whether the execution venues included in the order execution policy provide for the best possible result for clients or whether they need to make changes to their order execution arrangements. Crypto-asset service providers executing orders for crypto-assets on behalf of clients shall notify clients with whom they have an ongoing client relationship of any material changes to their order execution arrangements or order execution policy.

Article 79

Placing of crypto-assets

1. Crypto-asset service providers placing crypto-assets shall communicate the following information to the offeror, to the person seeking admission to trading, or to any third party acting on their behalf, before entering into an agreement with them:

- (a) the type of placement under consideration, including whether a minimum amount of purchase is guaranteed or not;
- (b) an indication of the amount of transaction fees associated with the proposed placing;
- (c) the likely timing, process and price for the proposed operation;
- (d) information about the targeted purchasers.

Crypto-asset service providers placing crypto-assets shall, before placing those crypto-assets, obtain the agreement of the issuers of those crypto-assets or any third party acting on their behalf as regards the information listed in the first subparagraph.

2. Crypto-asset service providers' rules on conflicts of interest referred to in Article 72(1) shall have specific and adequate procedures in place to identify, prevent, manage and disclose any conflicts of interest arising from the following situations:

- (a) crypto-asset service providers place the crypto-assets with their own clients;
- (b) the proposed price for placing of crypto-assets has been overestimated or underestimated;
- (c) incentives, including non-monetary incentives, are paid or granted by the offeror to crypto-asset service providers.

Article 80

Reception and transmission of orders for crypto-assets on behalf of clients

1. Crypto-asset service providers receiving and transmitting orders for crypto-assets on behalf of clients shall establish and implement procedures and arrangements that provide for the prompt and proper transmission of client orders for execution on a trading platform for crypto-assets or to another crypto-asset service provider.
2. Crypto-asset service providers receiving and transmitting orders for crypto-assets on behalf of clients shall not receive any remuneration, discount or non-monetary benefit in return for routing orders received from clients to a particular trading platform for crypto-assets or to another crypto-asset service provider.
3. Crypto-asset service providers receiving and transmitting orders for crypto-assets on behalf of clients shall not misuse information relating to pending client orders, and shall take all reasonable steps to prevent the misuse of such information by any of their employees.

Article 81

Providing advice on crypto-assets and providing portfolio management of crypto-assets

1. Crypto-asset service providers providing advice on crypto-assets or providing portfolio management of crypto-assets shall assess whether the crypto-asset services or crypto-assets are suitable for their clients or prospective clients, taking into consideration their knowledge and experience in investing in crypto-assets, their investment objectives, including risk tolerance, and their financial situation including their ability to bear losses.
2. Crypto-asset service providers providing advice on crypto-assets shall, in good time before providing advice on crypto-assets, inform prospective clients whether the advice is:
 - (a) provided on an independent basis;
 - (b) based on a broad or on a more restricted analysis of different crypto-assets, including whether the advice is limited to crypto-assets issued or offered by entities having close links with the crypto-asset service provider or any other legal or economic relationships, such as contractual relationships, that risk impairing the independence of the advice provided.
3. Where a crypto-asset service provider providing advice on crypto-assets informs the prospective client that advice is provided on an independent basis, it shall:
 - (a) assess a sufficient range of crypto-assets available on the market which must be sufficiently diverse to ensure that the client's investment objectives can be suitably met and which must not be limited to crypto-assets issued or provided by:
 - (i) that same crypto-asset service provider;
 - (ii) entities having close links with that same crypto-asset service provider; or
 - (iii) other entities with which that same crypto-asset service provider has such close legal or economic relationships, such as contractual relationships, as to pose a risk of impairing the independent basis of the advice provided;
 - (b) not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients.

Notwithstanding point (b) of the first subparagraph, minor non-monetary benefits that are capable of enhancing the quality of crypto-asset services provided to a client and that are of such a scale and nature that they do not impair compliance with a crypto-asset service provider's obligation to act in the best interests of its client shall be permitted in cases where they are clearly disclosed to the client.
4. Crypto-asset service providers providing advice on crypto-assets shall also provide prospective clients with information on all costs and related charges, including the cost of advice, where applicable, the cost of crypto-assets recommended or marketed to the client and how the client is permitted to pay for the crypto-assets, also encompassing any third-party payments.
5. Crypto-asset service providers providing portfolio management of crypto-assets shall not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by an issuer, offeror, person seeking admission to trading, or any third party, or a person acting on behalf of a third party, in relation to the provision of portfolio management of crypto-assets to their clients.

6. Where a crypto-asset service provider informs a prospective client that its advice is provided on a non-independent basis, that provider may receive inducements subject to the conditions that the payment or benefit:

- (a) is designed to enhance the quality of the relevant service to the client; and
- (b) does not impair compliance with the crypto-asset service provider's obligation to act honestly, fairly and professionally in accordance with the best interests of its clients.

The existence, nature and amount of the payment or benefit referred to in paragraph 4, or, where the amount cannot be ascertained, the method of calculating that amount, shall be clearly disclosed to the client, in a manner that is comprehensive, accurate and understandable, prior to the provision of the relevant crypto-asset service.

7. Crypto-asset service providers providing advice on crypto-assets shall ensure that natural persons giving advice or information about crypto-assets, or a crypto-asset service, on their behalf possess the necessary knowledge and competence to fulfil their obligations. Member States shall publish the criteria to be used for assessing such knowledge and competence.

8. For the purposes of the suitability assessment referred to in paragraph 1, crypto-asset service providers providing advice on crypto-assets or providing portfolio management of crypto-assets shall obtain from their clients or prospective clients the necessary information regarding their knowledge of, and experience in, investing, including in crypto-assets, their investment objectives, including risk tolerance, their financial situation including their ability to bear losses, and their basic understanding of the risks involved in purchasing crypto-assets, so as to enable crypto-asset service providers to recommend to clients or prospective clients whether or not the crypto-assets are suitable for them and, in particular, are in accordance with their risk tolerance and ability to bear losses.

9. Crypto-asset service providers providing advice on crypto-assets or portfolio management of crypto-assets shall warn clients or prospective clients that:

- (a) the value of crypto-assets might fluctuate;
- (b) the crypto-assets might be subject to full or partial losses;
- (c) the crypto-assets might not be liquid;
- (d) where applicable, the crypto-assets are not covered by the investor compensation schemes under Directive 97/9/EC;
- (e) the crypto-assets are not covered by the deposit guarantee schemes under Directive 2014/49/EU.

10. Crypto-asset service providers providing advice on crypto-assets or portfolio management of crypto-assets shall establish, maintain and implement policies and procedures to enable them to collect and assess all information necessary to conduct the assessment referred to in paragraph 1 for each client. They shall take all reasonable steps to ensure that the information collected about their clients or prospective clients is reliable.

11. Where clients do not provide the information required pursuant to paragraph 8, or where crypto-asset service providers providing advice on crypto-assets or portfolio management of crypto-assets consider that the crypto-asset services or crypto-assets are not suitable for their clients, they shall not recommend such crypto-asset services or crypto-assets, nor begin the provision of portfolio management of such crypto-assets.

12. Crypto-asset service providers providing advice on crypto-assets or portfolio management of crypto-assets shall regularly review for each client the suitability assessment referred to in paragraph 1 at least every two years after the initial assessment made in accordance with that paragraph.

13. Once the suitability assessment referred to in paragraph 1 or its review under paragraph 12 has been performed, crypto-asset service providers providing advice on crypto-assets shall provide clients with a report on suitability specifying the advice given and how that advice meets the preferences, objectives and other characteristics of clients. That report shall be made and communicated to clients in an electronic format. That report shall, as a minimum:

- (a) include an updated information on the assessment referred to in paragraph 1; and
- (b) provide an outline of the advice given.

The report on suitability referred to in the first subparagraph shall make clear that the advice is based on the client's knowledge and experience in investing in crypto-assets, the client's investment objectives, risk tolerance, financial situation and ability to bear losses.

14. Crypto-asset service providers providing portfolio management of crypto-assets shall provide periodic statements to their clients, in an electronic format, of the portfolio management activities carried out on their behalf. Those periodic statements shall contain a fair and balanced review of the activities undertaken and of the performance of the portfolio during the reporting period, an updated statement of how the activities undertaken meet the preferences, objectives and other characteristics of the client, as well as an updated information on the suitability assessment referred to in paragraph 1 or its review under paragraph 12.

The periodic statement referred to in the first subparagraph of this paragraph shall be provided every three months, except in cases where a client has access to an online system where up-to-date valuations of the client's portfolio and updated information on the suitability assessment referred to in paragraph 1 can be accessed, and the crypto-asset service provider has evidence that the client has accessed a valuation at least once during the relevant quarter. Such online system shall be deemed an electronic format.

15. ESMA shall, by 30 December 2024, issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 specifying:

- (a) the criteria for the assessment of knowledge and competence in accordance with paragraph 7;
- (b) the information referred to in paragraph 8; and
- (c) the format of the periodic statement referred to in paragraph 14.

Article 82

Providing transfer services for crypto-assets on behalf of clients

1. Crypto-asset service providers providing transfer services for crypto-assets on behalf of clients shall conclude an agreement with their clients to specify their duties and their responsibilities. Such agreement shall include at least the following:

- (a) the identity of the parties to the agreement;
- (b) a description of the modalities of the transfer service provided;
- (c) a description of the security systems used by the crypto-asset service provider;
- (d) fees applied by the crypto-asset service provider;
- (e) the applicable law.

2. ESMA, in close cooperation with EBA, shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 for crypto-asset service providers providing transfer services for crypto-assets on behalf of clients as regards procedures and policies, including the rights of clients, in the context of transfer services for crypto-assets.

CHAPTER 4

Acquisition of crypto-asset service providers

Article 83

Assessment of proposed acquisitions of crypto-asset service providers

1. Any natural or legal person or such persons acting in concert who have taken a decision either to acquire, directly or indirectly, (the 'proposed acquirer') a qualifying holding in a crypto-asset service provider or to increase, directly or indirectly, such a qualifying holding so that the proportion of the voting rights or of the capital held would reach or exceed 20 %, 30 % or 50 % or so that the crypto-asset service provider would become its subsidiary, shall notify the competent authority of that crypto-asset service provider thereof in writing indicating the size of the intended holding and the information required pursuant to the regulatory technical standards adopted by the Commission in accordance with Article 84(4).
2. Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in a crypto-asset service provider shall, prior to disposing of that holding, notify in writing the competent authority of its decision and indicate the size of such holding. That person shall also notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below 10 %, 20 %, 30 % or 50 % or so that the crypto-asset service provider would cease to be that person's subsidiary.
3. The competent authority shall, promptly and in any event within two working days following receipt of a notification pursuant to paragraph 1, acknowledge receipt thereof in writing.
4. The competent authority shall assess the proposed acquisition referred to in paragraph 1 of this Article and the information required pursuant to the regulatory technical standards adopted by the Commission in accordance with Article 84(4) within 60 working days of the date of the written acknowledgement of receipt referred to in paragraph 3 of this Article. When acknowledging receipt of the notification, the competent authority shall inform the proposed acquirer of the date of expiry of the assessment period.
5. For the purposes of the assessment referred to in paragraph 4, the competent authority may consult the competent authorities for anti-money laundering and counter-terrorist financing and financial intelligence units and shall duly consider their views.
6. When performing the assessment referred to in paragraph 4, the competent authority may request from the proposed acquirer any additional information that is necessary to complete that assessment. Such request shall be made before the assessment is finalised, and in any case no later than on the 50th working day from the date of the written acknowledgement of receipt referred to in paragraph 3. Such requests shall be made in writing and shall specify the additional information needed.

The competent authority shall suspend the assessment period referred to in paragraph 4, until they have received the additional information referred to in the first subparagraph of this paragraph. The suspension shall not exceed 20 working days. Any further requests by the competent authority for additional information or for clarification of the information received shall not result in an additional suspension of the assessment period.

The competent authority may extend the suspension referred to in the second subparagraph of this paragraph by up to 30 working days if the proposed acquirer is situated outside the Union or regulated under the law of a third country.

7. A competent authority that, upon completion of the assessment referred to in paragraph 4 decides to oppose the proposed acquisition referred to in paragraph 1, shall notify the proposed acquirer thereof within two working days and in any event before the date referred to in paragraph 4 extended, where applicable, in accordance with paragraph 6, second and third subparagraphs. The notification shall provide the reasons for such a decision.
8. Where the competent authority does not oppose the proposed acquisition referred to in paragraph 1 before the date referred to in paragraph 4 extended, where applicable, in accordance with paragraph 6, second and third subparagraphs, the proposed acquisition shall be deemed to be approved.
9. The competent authority may set a maximum period for concluding the proposed acquisition referred to in paragraph 1, and extend that maximum period where appropriate.

Article 84

Content of the assessment of proposed acquisitions of crypto-asset service providers

1. When performing the assessment referred to in Article 83(4), the competent authority shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition referred to in Article 83(1) against all of the following criteria:

- (a) the reputation of the proposed acquirer;
- (b) the reputation, knowledge, skills and experience of any person who will direct the business of the crypto-asset service provider as a result of the proposed acquisition;
- (c) the financial soundness of the proposed acquirer, in particular in relation to the type of business envisaged and pursued in respect of the crypto-asset service provider in which the acquisition is proposed;
- (d) whether the crypto-asset service provider will be able to comply and continue to comply with the provisions of this Title;
- (e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of, respectively, Article 1(3) and (5) of Directive (EU) 2015/849 is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

2. The competent authority may oppose the proposed acquisition only where there are reasonable grounds for doing so on the basis of the criteria set out in paragraph 1 of this Article or where the information provided in accordance with Article 83(4) is incomplete or false.

3. Member States shall not impose any prior conditions in respect of the level of qualifying holding that is required to be acquired under this Regulation nor allow their competent authorities to examine the proposed acquisition in terms of the economic needs of the market.

4. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards specifying the detailed content of the information that is necessary to carry out the assessment referred to in Article 83(4), first subparagraph. The information required shall be relevant for a prudential assessment, proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition referred to in Article 83(1).

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

CHAPTER 5

Significant crypto-asset service providers

Article 85

Identification of significant crypto-asset service providers

1. A crypto-asset service provider shall be deemed significant if it has in the Union at least 15 million active users, on average, in one calendar year, where the average is calculated as the average of the daily number of active users throughout the previous calendar year.
 2. Crypto-asset service providers shall notify their competent authorities within two months of reaching the number of active users as set out in paragraph 1. Where the competent authority agrees that the threshold set out in paragraph 1 is met, it shall notify ESMA thereof.
 3. Without prejudice to the responsibilities of competent authorities under this Regulation, the competent authorities of the home Member States shall provide ESMA's Board of Supervisors with annual updates on the following supervisory developments in relation to significant crypto-asset service providers:
 - (a) ongoing or concluded authorisations as referred to in Article 59;
 - (b) ongoing or concluded processes of withdrawal of authorisations as referred to in Article 64;
 - (c) the exercise of supervisory powers set out in Article 94(1), first subparagraph, points (b), (c), (e), (f), (g), (y) and (aa).
- The competent authority of the home Member State may provide ESMA's Board of Supervisors with more frequent updates, or notify it prior to any decision taken by the competent authority of the home Member State with regard to the first subparagraph, point (a), (b) or (c).
4. The update referred to in paragraph 3, second subparagraph, may be followed by an exchange of views at ESMA's Board of Supervisors.
 5. Where appropriate, ESMA may make use of its powers under Articles 29, 30, 31 and 31b of Regulation (EU) No 1095/2010.

TITLE VI
**PREVENTION AND PROHIBITION OF MARKET ABUSE INVOLVING CRYPTO-
ASSETS**

Article 86

Scope of the rules on market abuse

1. This Title shall apply to acts carried out by any person concerning crypto-assets that are admitted to trading or in respect of which a request for admission to trading has been made.
2. This Title shall also apply to any transaction, order or behaviour concerning crypto-assets as referred to in paragraph 1, irrespective of whether such transaction, order or behaviour takes place on a trading platform.
3. This Title shall apply to actions and omissions, in the Union and in third countries, concerning crypto-assets as referred to in paragraph 1.

Article 87

Inside information

1. For the purposes of this Regulation, inside information shall comprise the following types of information:
 - (a) information of a precise nature, which has not been made public, relating, directly or indirectly, to one or more issuers, offerors or persons seeking admission to trading, or to one or more crypto-assets, and which, if it were made public, would likely have a significant effect on the prices of those crypto-assets or on the price of a related crypto-asset;
 - (b) for persons charged with the execution of orders for crypto-assets on behalf of clients, it also means information of a precise nature conveyed by a client and relating to the client's pending orders in crypto-assets, relating, directly or indirectly, to one or more issuers, offerors or persons seeking admission to trading or to one or more crypto-assets, and which, if it were made public, would likely have a significant effect on the prices of those crypto-assets or on the price of a related crypto-asset.
2. For the purposes of paragraph 1, information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or which may reasonably be expected to come into existence, or an event which has occurred or which may reasonably be expected to occur, where it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of crypto-assets. In that respect, in the case of a protracted process that is intended to bring about, or that results in, particular circumstances or a particular event, those future circumstances or that future event, and also the intermediate steps of that process which are connected with bringing about or resulting in those future circumstances or that future event, may be deemed to be precise information.
3. An intermediate step in a protracted process shall be deemed to be inside information if, in and of itself, it satisfies the criteria of inside information referred to in paragraph 2.
4. For the purposes of paragraph 1, information which, if it were made public, would likely have a significant effect on the prices of crypto-assets shall mean information that a reasonable holder of crypto-assets would likely use as part of the basis of the holder's investment decisions.

Article 88

Public disclosure of inside information

1. Issuers, offerors and persons seeking admission to trading shall inform the public as soon as possible of inside information referred to in Article 87 that directly concerns them, in a manner that enables fast access as well as complete, correct and timely assessment of the information by the public. Issuers, offerors and persons seeking admission to trading shall not combine the disclosure of inside information to the public with the marketing of their activities. Issuers, offerors and persons seeking admission to trading shall post and maintain on their website, for a period of at least five years, all inside information that they are required to disclose publicly.

2. Issuers, offerors and persons seeking admission to trading may, on their own responsibility, delay disclosure to the public of inside information referred to in Article 87 provided that all of the following conditions are met:

(a) immediate disclosure is likely to prejudice the legitimate interests of the issuers, offerors or persons seeking admission to trading;

(b) delay of disclosure is not likely to mislead the public;

(c) issuers, offerors or persons seeking admission to trading are able to ensure the confidentiality of that information.

3. Where an issuer, offeror or a person seeking admission to trading has delayed the disclosure of inside information in accordance with paragraph 2, it shall inform the competent authority that disclosure of the information was delayed and shall provide a written explanation of how the conditions set out in paragraph 2 were met, immediately after the information is disclosed to the public. Alternatively, Member States may provide that a record of such an explanation is to be provided only upon the request of the competent authority.

4. In order to ensure uniform conditions of application of this Article, ESMA shall develop draft implementing technical standards to determine the technical means for:

(a) appropriate public disclosure of inside information as referred to in paragraph 1; and

(b) delaying the public disclosure of inside information as referred to in paragraphs 2 and 3.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 89

Prohibition of insider dealing

1. For the purposes of this Regulation, insider dealing shall be deemed to arise where a person possesses inside information and uses that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, crypto-assets to which that information relates. The use of inside information by cancelling or amending an order concerning a crypto-asset to which the information relates where the order was placed before the person concerned possessed the inside information, shall also be considered to be insider dealing. The use of inside information shall also comprise submitting, modifying or withdrawing a bid by a person for its own account or for the account of a third party.

2. No person shall engage or attempt to engage in insider dealing or use inside information about crypto-assets to acquire, or dispose of, those crypto-assets, directly or indirectly, whether for that person's own account or for the account of a third party. No person shall recommend that another person engage in insider dealing or induce another person to engage in insider dealing.

3. No person in the possession of inside information about crypto-assets shall, based on that inside information, recommend or induce another person:

- (a) to acquire or dispose of those crypto-assets; or
- (b) to cancel or amend an order concerning those crypto-assets.

4. The use of a recommendation or inducement as referred to in paragraph 3 amounts to insider dealing within the meaning of this Article where the person using that recommendation or inducement knows or ought to know that it is based on inside information.

5. This Article applies to any person who possesses inside information as a result of:

- (a) being a member of the administrative, management or supervisory bodies of the issuer, the offeror, or the person seeking admission to trading;
- (b) having a holding in the capital of the issuer, the offeror, or the person seeking admission to trading;
- (c) having access to the information through the exercise of an employment, profession or duties or in relation to its role in the distributed ledger technology or similar technology; or
- (d) being involved in criminal activities.

This Article also applies to any person who possesses inside information under circumstances other than those referred to in the first subparagraph where that person knows or ought to know that it is inside information.

6. Where person as referred to in paragraph 1 is a legal person, this Article shall apply, in accordance with national law, to the natural persons who participate in the decision to carry out the acquisition, disposal, cancellation or amendment of an order for the account of the legal person concerned.

Article 90

Prohibition of unlawful disclosure of inside information

1. No person in possession of inside information shall unlawfully disclose inside information to any other person, except where such disclosure is made in the normal exercise of an employment, a profession or duties.
2. The onward disclosure of recommendations or inducements referred to in Article 89(4) amounts to unlawful disclosure of inside information where the person disclosing the recommendation or inducement knows or ought to know that it was based on inside information.

Article 91

Prohibition of market manipulation

1. No person shall engage in or attempt to engage in market manipulation.
2. For the purposes of this Regulation, market manipulation shall comprise any of the following activities:
 - (a) unless carried out for legitimate reasons, entering into a transaction, placing an order to trade or engaging in any other behaviour which:
 - (i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of, a crypto-asset;
 - (ii) secures, or is likely to secure, the price of one or several crypto-assets at an abnormal or artificial level;
 - (b) entering into a transaction, placing an order to trade or any other activity or behaviour which affects or is likely to affect the price of one or several crypto-assets, while employing a fictitious device or any other form of deception or contrivance;
 - (c) disseminating information through the media, including the internet, or by any other means, which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of one or several crypto-assets, or secures or is likely to secure, the price of one or several crypto-assets, at an abnormal or artificial level, including the dissemination of rumours, where the person who engaged in the dissemination knew, or ought to have known, that the information was false or misleading.
3. The following behaviour shall, inter alia, be considered market manipulation:
 - (a) securing a dominant position over the supply of, or demand for, a crypto-asset, which has, or is likely to have, the effect of fixing, directly or indirectly, purchase or sale prices or creates, or is likely to create, other unfair trading conditions;
 - (b) the placing of orders to a trading platform for crypto-assets, including any cancellation or modification thereof, by any available means of trading, and which has one of the effects referred to in paragraph 2, point (a), by:
 - (i) disrupting or delaying the functioning of the trading platform for crypto-assets or engaging into any activities that are likely to have that effect;
 - (ii) making it more difficult for other persons to identify genuine orders on the trading platform for crypto-assets or engaging into any activities that are likely to have that effect, including by entering orders which result in the destabilisation of the normal functioning of the trading platform for crypto-assets;
 - (iii) creating a false or misleading signal about the supply of, or demand for, or price of, a crypto-asset, in particular by entering orders to initiate or exacerbate a trend, or engaging into any activities that are likely to have that effect;
 - (c) taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion about a crypto-asset, while having previously taken positions on that crypto-asset, and profiting subsequently from the impact of the opinions voiced on the price of that crypto-asset, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way.

Article 92

Prevention and detection of market abuse

1. Any person professionally arranging or executing transactions in crypto-assets shall have in place effective arrangements, systems and procedures to prevent and detect market abuse. That person shall be subject to the rules of notification of the Member State where it is registered or has its head office or, in the case of a branch, the Member State where the branch is situated, and shall without delay report to the competent authority of that Member State any reasonable suspicion regarding an order or transaction, including any cancellation or modification thereof, and other aspects of the functioning of the distributed ledger technology such as the consensus mechanism, where there might exist circumstances indicating that market abuse has been committed, is being committed or is likely to be committed.

The competent authorities receiving a report of suspicious orders or transactions shall transmit such information immediately to the competent authorities of the trading platforms concerned.

2. ESMA shall develop draft regulatory technical standards to further specify:

- (a) appropriate arrangements, systems and procedures for persons to comply with paragraph 1;
- (b) the template to be used by persons to comply with paragraph 1;
- (c) for cross-border market abuse situations, coordination procedures between the relevant competent authorities for the detection and sanctioning of market abuse.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 December 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

3. In order to ensure consistency of supervisory practices under this Article, ESMA shall by 30 June 2025 issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 on supervisory practices among the competent authorities to prevent and detect market abuse, if not already covered by the regulatory technical standards referred to in paragraph 2.

TITLE VII
COMPETENT AUTHORITIES, EBA AND ESMA

CHAPTER 1

**Powers of competent authorities and cooperation between competent
authorities, EBA and ESMA**

Article 93

Competent authorities

1. Member States shall designate the competent authorities responsible for carrying out the functions and duties provided for in this Regulation. Member States shall notify those competent authorities to EBA and ESMA.
2. Where Member States designate more than one competent authority pursuant to paragraph 1, they shall determine their respective tasks and designate one competent authority as the single point of contact for cross-border administrative cooperation between competent authorities as well as with EBA and ESMA. Member States may designate a different single point of contact for each of those types of administrative cooperation.
3. ESMA shall publish on its website a list of the competent authorities designated in accordance with paragraphs 1 and 2.

Article 94

Powers of competent authorities

1. In order to perform their duties under Titles II to VI of this Regulation, competent authorities shall have, in accordance with national law, at least the following supervisory and investigative powers:

- (a) to require any person to provide information and documents which the competent authorities consider could be relevant for the performance of their duties;
- (b) to suspend, or to require a crypto-asset service provider to suspend, the provision of crypto-asset services for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (c) to prohibit the provision of crypto-asset services where they find that this Regulation has been infringed;
- (d) to disclose, or to require a crypto-asset service provider to disclose, all material information which might have an effect on the provision of the crypto-asset services concerned, in order to ensure the protection of the interests of clients, in particular retail holders, or the smooth operation of the market;
- (e) to make public the fact that a crypto-asset service provider fails to fulfil its obligations;
- (f) to suspend, or to require a crypto-asset service provider to suspend, the provision of crypto-asset services where the competent authorities consider that the crypto-asset service provider's situation is such that the provision of the crypto-asset service would be detrimental to the interests of clients, in particular retail holders;
- (g) to require the transfer of existing contracts to another crypto-asset service provider in cases where a crypto-asset service provider's authorisation is withdrawn in accordance with Article 64, subject to the agreement of the clients and the crypto-asset service provider to which the contracts are to be transferred;
- (h) where there is a reason to assume that a person is providing crypto-asset services without authorisation, to order the immediate cessation of the activity without prior warning or imposition of a deadline;
- (i) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens to amend their crypto-asset white paper or further amend their modified crypto-asset white paper, where they find that the crypto-asset white paper or the modified crypto-asset white paper does not contain the information required by Article 6, 19 or 51;
- (j) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to amend their marketing communications, where they find that the marketing communications do not comply with the requirements set out in Article 7, 29 or 53 of this Regulation;
- (k) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to include additional information in their crypto-asset white papers, where necessary for financial stability or the protection of the interests of the holders of crypto-assets, in particular retail holders;
- (l) to suspend an offer to the public or an admission to trading of crypto-assets for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (m) to prohibit an offer to the public or an admission to trading of crypto-assets where they find that this Regulation has been infringed or where there are reasonable grounds for suspecting that it will be infringed;

- (n) to suspend, or require a crypto-asset service provider operating a trading platform for crypto-assets to suspend, trading of the crypto-assets for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (o) to prohibit trading of crypto-assets on a trading platform for crypto-assets where they find that this Regulation has been infringed or where there are reasonable grounds for suspecting that it will be infringed;
- (p) to suspend or prohibit marketing communications where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (q) to require offerors, persons seeking admission to trading of crypto-assets, issuers of asset-referenced tokens or e-money tokens or relevant crypto-asset service providers to cease or suspend marketing communications for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (r) to make public the fact that an offeror, a person seeking admission to trading of a crypto-asset or an issuer of an asset-referenced token or e-money token, fails to fulfil its obligations under this Regulation;
- (s) to disclose, or to require the offeror, the person seeking admission to trading of a crypto-asset or the issuer of the asset-referenced token or e-money token, to disclose all material information which may have an effect on the assessment of the crypto-asset offered to the public or admitted to trading in order to ensure the protection of the interests of holders of crypto-assets, in particular retail holders, or the smooth operation of the market;
- (t) to suspend, or require the relevant crypto-asset service provider operating the trading platform for crypto-assets to suspend, the crypto-assets from trading where they consider that the situation of the offeror, the person seeking admission to trading of a crypto-asset or the issuer of an asset-referenced token or an e-money token is such that trading would be detrimental to the interests of the holders of crypto-assets, in particular retail holders;
- (u) where there is a reason to assume that a person is issuing asset-referenced tokens or e-money tokens without authorisation or a person is offering or seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens without a crypto-asset white paper notified in accordance with Article 8, to order the immediate cessation of the activity without prior warning or imposition of a deadline;
- (v) to take any type of measure to ensure that an offeror or a person seeking admission to trading of crypto-assets, an issuer of an asset-referenced token or an e-money token or a crypto-asset service provider comply with this Regulation including to require the cessation of any practice or conduct that the competent authorities consider contrary to this Regulation;
- (w) to carry out on-site inspections or investigations at sites other than the private residences of natural persons, and for that purpose to enter premises in order to access documents and other data in any form;
- (x) to outsource verifications or investigations to auditors or experts;
- (y) to require the removal of a natural person from the management body of an issuer of an asset-referenced token or of a crypto-asset service provider;
- (z) to request any person to take steps to reduce the size of its position or exposure to crypto-assets;
- (aa) where no other effective means are available to bring about the cessation of the infringement of this Regulation and in order to avoid the risk of serious harm to the interests of clients or holders of crypto-assets to

take all necessary measures, including by requesting a third party or a public authority to implement such measures, to:

- (i) remove content or restrict access to an online interface or to order the explicit display of a warning to clients and holders of crypto-assets when they access an online interface;
- (ii) order a hosting service provider to remove, disable or restrict access to an online interface; or
- (iii) order domain registries or registrars to delete a fully qualified domain name and allow the competent authority concerned to register it;

(ab) to require an issuer of an asset-referenced token or e-money token, in accordance with Article 23(4), 24(3) or 58(3), to introduce a minimum denomination amount or to limit the amount issued.

2. Supervisory and investigative powers exercised in relation to offerors, persons seeking admission to trading, issuers and crypto-asset service providers, are without prejudice to powers granted to the same or other supervisory authorities regarding those entities, including powers granted to relevant competent authorities under the provisions of national law transposing Directive 2009/110/EC and prudential supervisory powers granted to the ECB under Regulation (EU) No 1024/2013.

3. In order to fulfil their duties under Title VI, competent authorities shall have, in accordance with national law, at least the following supervisory and investigatory powers in addition to the powers referred to in paragraph 1:

- (a) to access any document and data in any form, and to receive or take a copy thereof;
- (b) to require or demand information from any person, including those who are successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals, and if necessary, to summon and question any such person with a view to obtain information;
- (c) to enter the premises of natural and legal persons in order to seize documents and data in any form where a reasonable suspicion exists that documents or data relating to the subject matter of the inspection or investigation might be relevant to prove a case of insider dealing or market manipulation;
- (d) to refer matters for criminal prosecution;
- (e) to require, insofar as permitted by national law, existing data traffic records held by a telecommunications operator, where there is a reasonable suspicion of an infringement and where such records may be relevant to the investigation of an infringement of Articles 88 to 91;
- (f) to request the freezing or sequestration of assets, or both;
- (g) to impose a temporary prohibition on the exercise of professional activity;
- (h) to take all necessary measures to ensure that the public is correctly informed, inter alia, by correcting false or misleading disclosed information, including by requiring an offeror, person seeking admission to trading or issuer or other person who has published or disseminated false or misleading information to publish a corrective statement.

4. Where necessary under national law, the competent authority may ask the relevant court to decide on the use of the powers referred to in paragraphs 1 and 2.

5. Competent authorities shall exercise the powers referred to in paragraphs 1 and 2 in any of the following ways:

- (a) directly;
- (b) in collaboration with other authorities, including authorities competent for the prevention and fight against money laundering and terrorist financing;
- (c) under their responsibility, by delegation to the authorities referred to in point (b);
- (d) by application to the competent courts.

6. Member States shall ensure that appropriate measures are in place so that competent authorities can exercise the supervisory and investigatory powers that are necessary to perform their duties.

7. A person making information available to the competent authority in accordance with this Regulation shall not be considered to infringe any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.

Article 95

Cooperation between competent authorities

1. Competent authorities shall cooperate with each other for the purposes of this Regulation. Competent authorities shall render assistance to competent authorities of other Member States, and to EBA and ESMA. They shall exchange information without undue delay and cooperate in investigation, supervision and enforcement activities.

Where Member States have, in accordance with Article 111(1), second subparagraph, laid down criminal penalties for the infringements of this Regulation referred to in Article 111(1), first subparagraph, they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial, prosecuting or criminal justice authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for infringements of this Regulation and to provide the same information to other competent authorities as well as to EBA and ESMA, in order to fulfil their obligation to cooperate for the purposes of this Regulation.

2. A competent authority may refuse to act on a request for information or a request to cooperate with an investigation only in the following cases:

- (a) communication of relevant information could adversely affect the security of the Member State addressed, in particular with regard to the fight against terrorism and other serious crimes;
- (b) where complying with the request is likely to adversely affect its own investigation, enforcement activities or, where applicable, a criminal investigation;
- (c) where proceedings have already been initiated in respect of the same actions and against the same natural or legal persons before the courts of the Member State addressed;
- (d) where a final judgment has already been delivered in respect of the same action and against the same natural or legal person in the Member State addressed.

3. Competent authorities shall, upon request, without undue delay provide any information required for the purposes of this Regulation.

4. A competent authority may request assistance from the competent authority of another Member State with regard to on-site inspections or investigations.

A requesting competent authority shall inform EBA and ESMA of any request made pursuant to the first subparagraph. Where a competent authority receives a request from a competent authority of another Member State to carry out an on-site inspection or investigation, it may:

- (a) carry out the on-site inspection or investigation itself;
- (b) allow the competent authority which submitted the request to participate in an on-site inspection or investigation;
- (c) allow the competent authority which submitted the request to carry out the on-site inspection or investigation itself;
- (d) share specific tasks related to supervisory activities with the other competent authorities.

5. In the case of an on-site inspection or investigation referred to in paragraph 4, ESMA shall coordinate the inspection or investigation, where requested to do so by one of the competent authorities.

Where the on-site inspection or investigation referred to in paragraph 4 concerns an issuer of an asset-referenced token or e-money token or concerns crypto-asset services related to asset-referenced tokens or e-money tokens, EBA shall, where requested to do so by one of the competent authorities, coordinate the inspection or investigation.

6. The competent authorities may bring the matter to the attention of ESMA in situations where a request for cooperation, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time. Article 19(4) of Regulation (EU) No 1095/2010 shall apply in such situations *mutatis mutandis*.

7. By way of derogation from paragraph 6 of this Article, the competent authorities may bring the matter to the attention of EBA in situations where a request for cooperation, in particular for information concerning an issuer of an asset-referenced token or e-money token or concerning crypto-asset services related to asset-referenced tokens or e-money tokens, has been rejected or has not been acted upon within a reasonable time. Article 19(4) of Regulation (EU) No 1093/2010 shall apply in such situations *mutatis mutandis*.

8. Competent authorities shall closely coordinate their supervision in order to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation, and provide cross-jurisdictional assessments in the event of any disagreements.

For the purposes of the first subparagraph of this paragraph, EBA and ESMA shall fulfil a coordination role between competent authorities and across supervisory colleges as referred to in Article 119 with a view to building a common supervisory culture and consistent supervisory practices and ensuring uniform procedures.

9. Where a competent authority finds that any of the requirements under this Regulation has not been met or has reason to believe that to be the case, it shall inform the competent authority of the entity or entities suspected of such infringement of its findings in a sufficiently detailed manner.

10. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards to further specify the information to be exchanged between competent authorities pursuant to paragraph 1.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

11. ESMA, in close cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the cooperation and exchange of information between competent authorities.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 96

Cooperation with EBA and ESMA

1. For the purposes of this Regulation, the competent authorities shall cooperate closely with ESMA in accordance with Regulation (EU) No 1095/2010 and with EBA in accordance with Regulation (EU) No 1093/2010. They shall exchange information in order to carry out their duties under this Chapter and Chapters 2 and 3 of this Title.

2. The competent authorities shall without delay provide EBA and ESMA with all information necessary to perform their duties, in accordance with Article 35 of Regulation (EU) No 1093/2010 and Article 35 of Regulation (EU) No 1095/2010 respectively.

3. ESMA, in close cooperation with EBA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and EBA and ESMA.

ESMA shall submit the draft implementing technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

Article 97

Promotion of convergence on the classification of crypto-assets

1. By 30 December 2024, the ESAs shall jointly issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010, Article 16 of Regulation (EU) No 1094/2010 and Article 16 of Regulation (EU) No 1095/2010 to specify the content and form of the explanation accompanying the crypto-asset white paper referred to in Article 8(4) and of the legal opinions on the qualification of asset-referenced tokens referred to in Article 17(1), point (b)(ii), and Article 18(2), point (e). The guidelines shall include a template for the explanation and the opinion and a standardised test for the classification of crypto-assets.
2. The ESAs shall, in accordance with Article 29 of Regulation (EU) No 1093/2010, Article 29 of Regulation (EU) No 1094/2010 and Article 29 of Regulation (EU) No 1095/2010, respectively, promote discussion among competent authorities on the classification of the crypto-assets, including on the classification of those crypto-assets that are excluded from the scope of this Regulation pursuant to Article 2(3). The ESAs shall also identify the sources of potential divergences in the approaches of the competent authorities to the classification of those crypto-assets and shall, to the extent possible, promote a common approach thereto.
3. Competent authorities of the home or the host Member States may request ESMA, EIOPA or EBA, as appropriate, for an opinion on the classification of crypto-assets, including those that are excluded from the scope of this Regulation pursuant to Article 2(3). ESMA, EIOPA or EBA, as applicable, shall provide such opinion in accordance with Article 29 of Regulation (EU) No 1093/2010, Article 29 of Regulation (EU) No 1094/2010 and Article 29 of Regulation (EU) No 1095/2010, as applicable, within 15 working days of receipt of the request from the competent authorities.
4. The ESAs shall jointly draw up an annual report based on the information contained in the register referred to in Article 109 and on the results of their work referred to in paragraphs 2 and 3 of this Article, identifying difficulties in the classification of crypto-assets and divergences in the approaches of the competent authorities.

Article 98

Cooperation with other authorities

Where an offeror, person seeking admission to trading, an issuer of an asset-referenced token or e-money token or a crypto-asset service provider engages in activities other than those covered by this Regulation, the competent authorities shall cooperate with the authorities responsible for the supervision or oversight of such other activities pursuant to Union or national law, including tax authorities and relevant supervisory authorities of third countries.

Article 99

Duty of notification

Member States shall notify the laws, regulations and administrative provisions implementing this Title, including any relevant criminal law provisions, to the Commission, EBA and ESMA by 30 June 2025. Member States shall notify the Commission, EBA and ESMA without undue delay of any subsequent amendments thereto.

Article 100

Professional secrecy

1. All information exchanged between the competent authorities under this Regulation that concerns business or operational conditions and other economic or personal affairs shall be considered confidential and shall be subject to the requirements of professional secrecy, except where the competent authority states at the time of communication that such information may be disclosed or such disclosure is necessary for legal proceedings or cases covered by national taxation or criminal law.
2. The obligation of professional secrecy shall apply to all natural and legal persons who work or have worked for the competent authorities. Information covered by professional secrecy may not be disclosed to any other natural or legal person or authority except by virtue of Union or national legislative acts.

Article 101

Data protection

With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679.

The processing of personal data by EBA and ESMA for the purposes of this Regulation shall be carried out in accordance with Regulation (EU) 2018/1725.

Article 102

Precautionary measures

1. Where the competent authority of a host Member State has clear and demonstrable grounds for suspecting that there are irregularities in the activities of an offeror or person seeking admission to trading of crypto-assets, an issuer of an asset-referenced token or e-money token, or a crypto-asset service provider, it shall notify the competent authority of the home Member State and ESMA thereof.

Where the irregularities referred to in the first subparagraph concern an issuer of an asset-referenced token or e-money token, or a crypto-asset service related to asset-referenced tokens or e-money tokens, the competent authority of the host Member State shall also notify EBA.

2. Where, despite the measures taken by the competent authority of the home Member State, the irregularities referred to in paragraph 1 persist, amounting to an infringement of this Regulation, the competent authority of the host Member State, after informing the competent authority of the home Member State, ESMA and, where appropriate, EBA, shall take appropriate measures in order to protect clients of crypto-asset service providers and holders of crypto-assets, in particular retail holders. Such measures include preventing the offeror, person seeking admission to trading, the issuer of the asset-referenced token or e-money token or the crypto-asset service provider from conducting further activities in the host Member State. The competent authority shall inform ESMA and, where appropriate, EBA thereof without undue delay. ESMA, and, where involved, EBA, shall inform the Commission accordingly without undue delay.

3. Where a competent authority of the home Member State disagrees with any of the measures taken by a competent authority of the host Member State pursuant to paragraph 2 of this Article, it may bring the matter to the attention of ESMA. Article 19(4) of Regulation (EU) No 1095/2010 shall apply in such situations *mutatis mutandis*.

By way of derogation from the first subparagraph of this paragraph, where the measures referred to in paragraph 2 of this Article concern an issuer of an asset-referenced token or e-money token, or a crypto-asset service related to asset-referenced tokens or e-money tokens, the competent authority of the host Member State may bring the matter to the attention of EBA. Article 19(4) of Regulation (EU) No 1093/2010 shall apply in such situations *mutatis mutandis*.

Article 103

ESMA temporary intervention powers

1. In accordance with Article 9(5) of Regulation (EU) No 1095/2010, ESMA may, where the conditions in paragraphs 2 and 3 of this Article are fulfilled, temporarily prohibit or restrict:

- (a) the marketing, distribution or sale of certain crypto-assets other than asset-referenced tokens or e-money tokens or crypto-assets other than asset-referenced tokens or e-money tokens with certain specified features; or
- (b) a type of activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens.

A prohibition or restriction may apply in certain circumstances, or be subject to exceptions, specified by ESMA.

2. ESMA shall take a measure pursuant to paragraph 1 only if all of the following conditions are fulfilled:

- (a) the proposed prohibition or restriction addresses a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system in the Union;
- (b) the regulatory requirements under Union law that are applicable to the relevant crypto-assets and crypto-asset services do not address the threat at issue;
- (c) a relevant competent authority has not taken action to address the threat at issue or the actions that have been taken do not adequately address that threat.

3. When taking a measure pursuant to paragraph 1, ESMA shall ensure that the measure does not:

- (a) have a detrimental effect on the efficiency of markets in crypto-assets or on holders of crypto-assets or clients receiving crypto-asset services that is disproportionate to the benefits of the measure; and
- (b) create a risk of regulatory arbitrage.

Where competent authorities have taken a measure pursuant to Article 105, ESMA may take any of the measures referred to in paragraph 1 of this Article without issuing an opinion pursuant to Article 106(2).

4. Before deciding to take a measure pursuant to paragraph 1, ESMA shall notify the relevant competent authorities of the measure it intends to take.

5. ESMA shall publish on its website a notice of a decision to take a measure pursuant to paragraph 1. That notice shall specify the details of the prohibition or restriction imposed and specify a time after the publication of the notice from which the measures will take effect. A prohibition or restriction shall only apply to activities after the measure has taken effect.

6. ESMA shall review a prohibition or restriction imposed pursuant to paragraph 1 at appropriate intervals, and at least every six months. Following at least two consecutive renewals and based on a proper analysis assessing the impact on consumers, ESMA may decide on the annual renewal of the prohibition or restriction.

7. Measures taken by ESMA pursuant to this Article shall prevail over any previous measure taken by the relevant competent authorities on the same matter.

8. The Commission shall adopt delegated acts in accordance with Article 139 to supplement this Regulation by specifying the criteria and factors to be taken into account by ESMA in determining whether there is a

significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system of the Union for the purposes of paragraph 2, point (a), of this Article.

Article 104

EBA temporary intervention powers

1. In accordance with Article 9(5) of Regulation (EU) No 1093/2010, EBA may, where the conditions in paragraphs 2 and 3 of this Article are fulfilled, temporarily prohibit or restrict:

- (a) the marketing, distribution or sale of certain asset-referenced tokens or e-money tokens or asset-referenced tokens or e-money tokens with certain specified features; or
- (b) a type of activity or practice related to asset-referenced tokens or e-money tokens.

A prohibition or restriction may apply in certain circumstances, or be subject to exceptions, specified by EBA.

2. EBA shall take a measure pursuant to paragraph 1 only if all of the following conditions are fulfilled:

- (a) the proposed prohibition or restriction addresses a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system in the Union;
- (b) the regulatory requirements under Union law that are applicable to the relevant asset-referenced tokens, e-money tokens or crypto-asset services related to them do not address the threat at issue;
- (c) a relevant competent authority has not taken action to address the threat at issue or the actions that have been taken do not adequately address that threat.

3. When taking a measure pursuant to paragraph 1, EBA shall ensure that the measure does not:

- (a) have a detrimental effect on the efficiency of markets in crypto-assets or on holders of asset-referenced tokens or e-money tokens or clients receiving crypto-asset services that is disproportionate to the benefits of the measure; and
- (b) create a risk of regulatory arbitrage.

Where competent authorities have taken a measure pursuant to Article 105, EBA may take any of the measures referred to in paragraph 1 of this Article without issuing an opinion pursuant to Article 106(2).

4. Before deciding to take a measure pursuant to paragraph 1, EBA shall notify the relevant competent authorities of the measure it intends to take.

5. EBA shall publish on its website a notice of a decision to take a measure pursuant to paragraph 1. That notice shall specify the details of the prohibition or restriction imposed and specify a time after the publication of the notice from which the measures will take effect. A prohibition or restriction shall only apply to activities after the measure has taken effect.

6. EBA shall review a prohibition or restriction imposed pursuant to paragraph 1 at appropriate intervals, and at least every six months. Following at least two consecutive renewals and based on a proper analysis assessing the impact on consumers, EBA may decide on the annual renewal of the prohibition or restriction.

7. Measures taken by EBA pursuant to this Article shall prevail over any previous measure taken by the relevant competent authority on the same matter.

8. The Commission shall adopt delegated acts in accordance with Article 139 to supplement this Regulation by specifying the criteria and factors to be taken into account by EBA in determining whether there is a significant

investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system of the Union for the purposes of paragraph 2, point (a), of this Article.

Article 105

Product intervention by competent authorities

1. A competent authority may prohibit or restrict the following in or from its Member State:
 - (a) the marketing, distribution or sale of certain crypto-assets or crypto-assets with certain specified features; or
 - (b) a type of activity or practice related to crypto-assets.
2. A competent authority shall only take a measure pursuant to paragraph 1 if it is satisfied on reasonable grounds that:
 - (a) a crypto-asset gives rise to significant investor protection concerns or poses a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system within at least one Member State;
 - (b) existing regulatory requirements under Union law applicable to the crypto-asset or crypto-asset service concerned do not sufficiently address the risks referred to in point (a) and the issue would not be better addressed by improved supervision or enforcement of existing requirements;
 - (c) the measure is proportionate, taking into account the nature of the risks identified, the level of sophistication of investors or market participants concerned and the likely effect of the measure on investors and market participants who may hold, use or benefit from the crypto-asset or crypto-asset service concerned;
 - (d) the competent authority has properly consulted the competent authorities in other Member States that might be significantly affected by the measure; and
 - (e) the measure does not have a discriminatory effect on services or activities provided from another Member State.

Where the conditions set out in the first subparagraph of this paragraph are fulfilled, the competent authority may impose the prohibition or restriction referred to in paragraph 1 on a precautionary basis before a crypto-asset has been marketed, distributed or sold to clients.

The competent authority may decide to apply the prohibition or restriction referred to in paragraph 1 only in certain circumstances or to make it subject to exceptions.

3. The competent authority shall not impose a prohibition or restriction under this Article unless, not less than one month before the measure is intended to take effect, it has notified all other competent authorities and ESMA, or EBA for asset-referenced tokens and e-money tokens, in writing or through another medium agreed between the authorities, the following details:
 - (a) the crypto-asset or activity or practice to which the proposed measure relates;
 - (b) the precise nature of the proposed prohibition or restriction and when it is intended to take effect; and
 - (c) the evidence upon which it has based its decision and upon which it is satisfied that each of the conditions in paragraph 2, first subparagraph, are met.
4. In exceptional cases where the competent authority considers it necessary in order to prevent any detrimental effects arising from the crypto-asset or activity or practice referred to in paragraph 1, the competent authority may take an urgent measure on a provisional basis with no less than 24 hours' written notice before

the measure is intended to take effect to all other competent authorities and ESMA, provided that all of the criteria listed in this Article are met and, in addition, that it is clearly established that a one-month notification period would not adequately address the specific concern or threat. The duration of measures taken on a provisional basis shall not exceed three months.

5. The competent authority shall publish on its website a notice of a decision to impose a prohibition or restriction as referred to in paragraph 1. That notice shall specify the details of the prohibition or restriction imposed and specify a time after the publication of the notice from which the measures will take effect and the evidence upon which the competent authority has based its decision, and is satisfied that each of the conditions in paragraph 2, first subparagraph, is met. The prohibition or restriction shall only apply to activities after the measures have taken effect.

6. The competent authority shall revoke a prohibition or restriction if the conditions in paragraph 2 no longer apply.

7. The Commission shall adopt delegated acts in accordance with Article 139 to supplement this Regulation by specifying the criteria and factors to be taken into account by the competent authorities in determining whether there is a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system within at least one Member State as for the purposes of paragraph 2, first subparagraph, point (a).

Article 106

Coordination with ESMA or EBA

1. ESMA or, for asset-referenced tokens and e-money tokens, EBA, shall perform a facilitating and coordinating role in relation to measures taken by competent authorities pursuant to Article 105. ESMA or, for asset-referenced tokens and e-money tokens, EBA, shall ensure that measures taken by a competent authority are justified and proportionate and that a consistent approach is taken by competent authorities, where appropriate.
2. After receiving notification in accordance with Article 105(3) of any measure to be taken pursuant to that Article, ESMA or, for asset-referenced tokens and e-money tokens, EBA, shall issue an opinion on whether the prohibition or restriction is justified and proportionate. If ESMA or, for asset-referenced tokens and e-money tokens, EBA, considers that the taking of a measure by other competent authorities is necessary to address the risk, it shall state this in its opinion. The opinion shall be published on the website of ESMA or, for asset-referenced tokens and e-money tokens, EBA.
3. Where a competent authority proposes to take, or takes or declines to take measures contrary to an opinion issued by ESMA or EBA pursuant to paragraph 2, it shall immediately publish on its website a notice fully explaining its reasons therefor.

Article 107

Cooperation with third countries

1. The competent authorities of Member States shall, where necessary, conclude cooperation arrangements with supervisory authorities of third countries concerning the exchange of information with those supervisory authorities of third countries and the enforcement of obligations under this Regulation in those third countries. Those cooperation arrangements shall ensure at least an efficient exchange of information that allows the competent authorities to carry out their duties under this Regulation.

A competent authority shall inform EBA, ESMA and the other competent authorities where it intends to conclude such an arrangement.

2. ESMA, in close cooperation with EBA, shall, where possible, facilitate and coordinate the development of cooperation arrangements between the competent authorities and the relevant supervisory authorities of third countries.

3. ESMA, in close cooperation with EBA, shall develop draft regulatory technical standards establishing a template document for cooperation arrangements referred to in paragraph 1 for use by competent authorities of Member States where possible.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

4. ESMA, in close cooperation with EBA, shall also, where possible, facilitate and coordinate the exchange between competent authorities of information obtained from supervisory authorities of third countries that might be relevant for taking measures under Chapter 3 of this Title.

5. The competent authorities shall conclude cooperation arrangements on exchange of information with the supervisory authorities of third countries only where the information disclosed is subject to guarantees of professional secrecy that are at least equivalent to those set out in Article 100. Such exchange of information shall be intended for the performance of the tasks under this Regulation of those competent authorities.

Article 108

Complaints-handling by competent authorities

1. Competent authorities shall set up procedures that allow clients and other interested parties, including consumer associations, to submit complaints to them with regard to alleged infringements of this Regulation by offerors, persons seeking admission to trading, issuers of asset-referenced tokens or e-money tokens, or crypto-asset service providers. Complaints shall be accepted in writing, including electronically, and in an official language of the Member State in which the complaint is submitted, or in a language accepted by the competent authorities of that Member State.
2. Information on the complaints-handling procedures referred to in paragraph 1 of this Article shall be made available on the website of each competent authority and communicated to EBA and ESMA. ESMA shall publish hyperlinks to the sections of the websites of the competent authorities related to complaints-handling procedures in its crypto-asset register referred to in Article 109.

CHAPTER 2

ESMA register

Article 109

Register of crypto-asset white papers, of issuers of asset-referenced tokens and e-money tokens, and of crypto-asset service providers

1. ESMA shall establish a register of:
 - (a) crypto-asset white papers for crypto-assets other than asset-referenced tokens and e-money tokens;
 - (b) issuers of asset-referenced tokens;
 - (c) issuers of e-money tokens; and
 - (d) crypto-asset service providers.

ESMA's register shall be publicly available on its website and shall be updated on a regular basis. In order to facilitate such updating, the competent authorities shall communicate to ESMA any changes notified to them regarding the information specified in paragraphs 2 to 5.

The competent authorities shall provide ESMA with the data necessary for the classification of crypto-asset white papers in the register, as specified in accordance with paragraph 8.

2. As regards crypto-asset white papers for crypto-assets other than asset-referenced tokens or e-money tokens, the register shall contain the crypto-asset white papers and any modified crypto-asset white papers. Any out-of-date versions of the crypto-asset white papers shall be kept in a separate archive and be clearly marked as out-of-date versions.

3. As regards issuers of asset-referenced tokens, the register shall contain the following information:

- (a) the name, legal form and legal entity identifier of the issuer;
- (b) the commercial name, physical address, telephone number, email and website of the issuer;
- (c) the crypto-asset white papers and any modified crypto-asset white papers, with the out-of-date versions of the crypto-asset white paper kept in a separate archive and clearly marked as out-of-date;
- (d) the list of host Member States where the applicant issuer intends to offer an asset-referenced token to the public or intends to seek admission to trading of the asset-referenced tokens;
- (e) the starting date, or, if not available at the time of the notification by the competent authority, the intended starting date, of the offer to the public or the admission to trading;
- (f) any other services provided by the issuer not covered by this Regulation, with a reference to the applicable Union or national law;
- (g) the date of authorisation to offer to the public or seek the admission to trading of an asset-referenced token or of authorisation as a credit institution and, where applicable, of withdrawal of either authorisation.

4. As regards issuers of e-money tokens, the register shall contain the following information:

- (a) the name, legal form and legal entity identifier of the issuer;
- (b) the commercial name, physical address, telephone number, email and website of the issuer;
- (c) the crypto-asset white papers and any modified crypto-asset white papers, with the out-of-date versions of the crypto-asset white paper kept in a separate archive and clearly marked as out-of-date;
- (d) the starting date, or, if not available at the time of the notification by the competent authority, the intended starting date, of the offer to the public or the admission to trading;
- (e) any other services provided by the issuer not covered by this Regulation, with a reference to the applicable Union or national law;
- (f) the date of authorisation as a credit institution or as an electronic money institution and, where applicable, of withdrawal of that authorisation.

5. As regards crypto-asset service providers, the register shall contain the following information:

- (a) the name, legal form and legal entity identifier of the crypto-asset service provider and, where applicable, of the branches of the crypto-asset service provider;
- (b) the commercial name, physical address, telephone number, email and website of the crypto-asset service provider and, where applicable, of the trading platform for crypto-assets operated by the crypto-asset service provider;
- (c) the name and address of the competent authority that granted authorisation and its contact details;
- (d) the list of crypto-asset services provided by the crypto-asset service provider;
- (e) the list of host Member States in which the crypto-asset service provider intends to provide crypto-asset services;
- (f) the starting date, or, if not available at the time of the notification by the competent authority, the intended starting date, of the provision of crypto-asset services;
- (g) any other services provided by the crypto-asset service provider not covered by this Regulation with a reference to the applicable Union or national law;
- (h) the date of authorisation and, where applicable, of the withdrawal of an authorisation.

6. Competent authorities shall notify ESMA without delay of the measures listed in Article 94(1), first subparagraph, point (b), (c), (f), (l), (m), (n), (o) or (t), and of any public precautionary measures taken pursuant to Article 102 affecting the provision of crypto-asset services or the issuance, offer to the public or use of crypto-assets. ESMA shall include such information in the register.

7. Any withdrawal of an authorisation of an issuer of an asset-referenced token, of an issuer of an e-money token, or of a crypto-asset service provider, and any measure notified in accordance with paragraph 6, shall remain published in the register for five years.

8. ESMA shall develop draft regulatory technical standards to further specify the data necessary for the classification, by type of crypto-asset, of crypto-asset white papers, including the legal entity identifiers, in the register and specify the practical arrangements to ensure that such data is machine-readable.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 110

Register of non-compliant entities providing crypto-asset services

1. ESMA shall establish a non-exhaustive register of entities that provide crypto-asset services in violation of Article 59 or 61.
2. The register shall contain at least the commercial name or the website of a non-compliant entity and the name of the competent authority that submitted the information.
3. The register shall be publicly available on ESMA's website in a machine-readable format and shall be updated on a regular basis to take into account any changes of circumstances or any information that is brought to ESMA's attention concerning the registered non-compliant entities. The register shall enable centralised access to information submitted by competent authorities from the Member States or third countries, as well as by EBA.
4. ESMA shall update the register to include information on any case of infringement of this Regulation identified on its own initiative in accordance with Article 17 of Regulation (EU) No 1095/2010 in which it has adopted a decision under paragraph 6 of that Article addressed to a non-compliant entity providing crypto-asset services, or any information on entities providing crypto-asset services without the necessary authorisation or registration submitted by the relevant supervisory authorities of third countries.
5. In the cases referred to in paragraph 4 of this Article, ESMA may apply the relevant supervisory and investigative powers of competent authorities as referred to in Article 94(1) to non-compliant entities providing crypto-asset services.

Article 110a

Accessibility of information on the European single access point

1. From 10 January 2030, when making public any information referred to in Article 88(1) of this Regulation, the issuer, offeror or person seeking admission to trading shall submit that information at the same time to the relevant collection body referred to in paragraph 3 of this Article for the purpose of making it accessible on the European single access point (ESAP) established under Regulation (EU) 2023/2859 of the European Parliament and of the Council⁴⁶.

That information shall comply with the following requirements:

(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859 or, where required by Union law, in a machine-readable format, as defined in Article 2, point (4), of that Regulation;

(b) be accompanied by the following metadata:

- (i) all the names of the issuer, offeror or person seeking admission to trading to which the information relates;
- (ii) for legal persons, the legal entity identifier of the issuer, offeror or person seeking admission to trading, as specified pursuant to Article 7(4), point (b), of Regulation (EU) 2023/2859;
- (iii) for legal persons, the size, by category, of the issuer, offeror or person seeking admission to trading, as specified pursuant to Article 7(4), point (d), of that Regulation;
- (iv) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;
- (v) an indication of whether the information contains personal data.

2. For the purposes of paragraph 1, point (b)(ii), the issuer, offeror or person seeking admission to trading shall obtain a legal entity identifier.

3. By 9 January 2030, for the purpose of making the information referred to in paragraph 1 of this Article accessible on ESAP, Member States shall designate at least one collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 and notify ESMA thereof.

4. From 10 January 2030, the information referred to in Articles 109 and 110 of this Regulation shall be made accessible on ESAP. For that purpose, the collection body as defined in Article 2, point (2), of Regulation (EU) 2023/2859 shall be ESMA.

That information shall comply with the following requirements:

(a) be submitted in a machine-readable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859;

(b) be accompanied by the following metadata:

⁴⁶ Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (OJ L, 2023/2859, 20.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2859/oj>).

- (i) all the names of the issuer of asset-referenced tokens, issuer of e-money tokens and crypto-asset service provider to which the information relates;
- (ii) where available, the legal entity identifier of the issuer of asset-referenced tokens, issuer of e-money tokens and crypto-asset service provider, as specified pursuant to Article 7(4), point (b), of that Regulation;
- (iii) the type of information, as classified pursuant to Article 7(4), point (c), of that Regulation;
- (iv) an indication of whether the information contains personal data.

5. For the purpose of ensuring the efficient collection and management of information submitted in accordance with paragraph 1, ESMA shall develop draft implementing technical standards to specify:

- (a) any other metadata to accompany the information;
- (b) the structuring of data in the information;
- (c) for which information a machine-readable format is required and, in such cases, which machine-readable format is to be used.

For the purposes of point (c), ESMA shall assess the advantages and disadvantages of different machine-readable formats and conduct appropriate field tests.

ESMA shall submit those draft implementing technical standards to the Commission.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

6. Where necessary, ESMA shall adopt guidelines for entities to ensure that the metadata submitted in accordance with paragraph 5, first subparagraph, point (a), are correct.

CHAPTER 3

Administrative penalties and other administrative measures by competent authorities

Article 111

Administrative penalties and other administrative measures

1. Without prejudice to any criminal penalties and without prejudice to the supervisory and investigative powers of competent authorities listed in Article 94, Member States shall, in accordance with national law, provide for competent authorities to have the power to take appropriate administrative penalties and other administrative measures in relation to at least the following infringements:

- (a) infringements of Articles 4 to 14;
- (b) infringements of Articles 16, 17, 19, 22, 23, 25, Articles 27 to 41, Articles 46 and 47;
- (c) infringements of Articles 48 to 51, Articles 53, 54 and 55;
- (d) infringements of Articles 59, 60, 64 and Articles 65 to 83;
- (e) infringements of Articles 88 to 92;
- (f) failure to cooperate or to comply with an investigation, with an inspection or with a request as referred to in Article 94(3).

Member States may decide not to lay down rules for administrative penalties where the infringements referred to in the first subparagraph, point (a), (b), (c), (d) or (e), are already subject to criminal penalties in their national law by 30 June 2024. Where they so decide, Member States shall notify to the Commission, ESMA and to EBA, in detail, the relevant parts of their criminal law.

By 30 June 2025, Member States shall notify to the Commission, EBA and ESMA, in detail, the rules referred to in the first and second subparagraphs. They shall also notify the Commission, ESMA and EBA without delay of any subsequent amendment thereto.

2. Member States shall, in accordance with their national law, ensure that competent authorities have the power to impose at least the following administrative penalties and other administrative measures in relation to the infringements referred to in paragraph 1, first subparagraph, points (a) to (d):

- (a) a public statement indicating the natural or legal person responsible and the nature of the infringement;
- (b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;
- (c) maximum administrative fines of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined, even if it exceeds the maximum amounts set out in point (d) of this paragraph, as regards natural persons, or in paragraph 3 as regards legal persons;
- (d) in the case of a natural person, maximum administrative fines of at least EUR 700 000, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency on 29 June 2023.

3. Member States shall, in accordance with their national law, ensure that competent authorities have the power to impose, in relation to infringements committed by legal persons, maximum administrative fines of at least:

- (a) EUR 5 000 000, or, in the Member States whose official currency is not the euro, the corresponding value in the official currency on 29 June 2023, for the infringements referred to in paragraph 1, first subparagraph, points (a) to (d);
- (b) 3 % of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, point (a);
- (c) 5 % of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, point (d);
- (d) 12,5 % of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, points (b) and (c).

Where the legal person referred to in the first subparagraph, points (a) to (d), is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

4. In addition to the administrative penalties and other administrative measures as well as administrative fines referred to in paragraphs 2 and 3, Member States shall, in accordance with their national law, ensure that competent authorities have the power to impose, in the event of infringements referred to in paragraph 1, first subparagraph, point (d), a temporary ban preventing any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in a crypto-asset service provider.

5. Member States shall, in accordance with their national law, ensure that, in the event of the infringements referred to in paragraph 1, first subparagraph, point (e), competent authorities have the power to impose at least the following administrative penalties and to take at least the following administrative measures:

- (a) a public statement indicating the natural or legal person responsible and the nature of the infringement;
- (b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;
- (c) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;
- (d) withdrawal or suspension of the authorisation of a crypto-asset service provider;
- (e) a temporary ban of any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in crypto-asset service providers;

- (f) in the event of a repeated infringement of Article 89, 90, 91 or 92, a ban of at least 10 years for any member of the management body of a crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in a crypto-asset service provider;
- (g) a temporary ban of any member of the management body of a crypto-asset service provider or any other natural person who is held responsible for the infringement, from dealing on own account;
- (h) maximum administrative fines of at least three times the amount of the profits gained or losses avoided because of the infringement, where those can be determined, even if it exceeds the maximum amounts set out in point (i) or (j), as applicable;
- (i) in respect of a natural person, maximum administrative fines of at least EUR 1 000 000 for infringements of Article 88 and EUR 5 000 000 for infringements of Articles 89 to 92 or in the Member States whose official currency is not the euro, the corresponding value in the official currency on 29 June 2023;
- (j) in respect of legal persons, maximum administrative fines of at least EUR 2 500 000 for infringements of Article 88 and EUR 15 000 000 for infringements of Articles 89 to 92, or 2 % for infringements of Article 88 and 15 % for infringements of Articles 89 to 92 of the total annual turnover of the legal person according to the last available accounts approved by the management body, or in the Member States whose official currency is not the euro, the corresponding value in the official currency on 29 June 2023.

For the purpose of point (j) of the first subparagraph, where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

6. Member States may provide that competent authorities have powers in addition to those referred to in paragraphs 2 to 5 and may provide for higher levels of penalties than those established in those paragraphs, in respect of both natural and legal persons responsible for the infringement.

Article 112

Exercise of supervisory powers and powers to impose penalties

1. Competent authorities, when determining the type and level of an administrative penalty or other administrative measure to be imposed in accordance with Article 111, shall take into account all relevant circumstances, including, where appropriate:

- (a) the gravity and the duration of the infringement;
- (b) whether the infringement has been committed intentionally or negligently;
- (c) the degree of responsibility of the natural or legal person responsible for the infringement;
- (d) the financial strength of the natural or legal person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (e) the importance of the profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as those can be determined;
- (f) the losses for third parties caused by the infringement, insofar as those can be determined;
- (g) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (h) previous infringements of this Regulation by the natural or legal person responsible for the infringement;
- (i) measures taken by the person responsible for the infringement to prevent its repetition;
- (j) the impact of the infringement on the interests of holders of crypto-assets and clients of crypto-asset service providers, in particular retail holders.

2. In the exercise of their powers to impose administrative penalties and other administrative measures under Article 111, competent authorities shall cooperate closely to ensure that the exercise of their supervisory and investigative powers, and the administrative penalties and other administrative measures that they impose, are effective and appropriate. They shall coordinate their action in order to avoid duplication and overlaps when exercising their supervisory and investigative powers and when imposing administrative penalties and other administrative measures in cross-border cases.

Article 113

Right of appeal

1. Member States shall ensure that decisions taken by competent authorities under this Regulation are properly reasoned and subject to the right of appeal before a court. The right of appeal before a court shall also apply where, in respect of an application for authorisation which provides all of the required information, no decision is taken within six months of its submission.
2. Member States shall provide that one or more of the following bodies, as determined by national law, may, in the interests of consumers and in accordance with national law, take action before the courts or competent administrative bodies to ensure that this Regulation is applied:
 - (a) public bodies or their representatives;
 - (b) consumer organisations having a legitimate interest in protecting holders of crypto-assets;
 - (c) professional organisations having a legitimate interest in protecting their members.

Article 114

Publication of decisions

1. A decision imposing administrative penalties and other administrative measures for an infringement of this Regulation in accordance with Article 111 shall be published by competent authorities on their official websites without undue delay after the natural or legal person subject to that decision has been informed of that decision. The publication shall include at least information on the type and nature of the infringement and the identity of the natural or legal persons responsible. Decisions imposing measures that are of an investigatory nature need not be published.

2. Where the publication of the identity of the legal entities, or the identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise an ongoing investigation, competent authorities shall take one of the following actions:

(a) defer the publication of the decision to impose an administrative penalty or other administrative measure until the moment where the reasons for non-publication cease to exist;

(b) publish the decision to impose an administrative penalty or other administrative measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures the effective protection of the personal data concerned;

(c) not publish the decision to impose an administrative penalty or other administrative measure in the event that the options provided for in points (a) and (b) are considered insufficient to ensure:

(i) that the stability of financial markets is not jeopardised;

(ii) the proportionality of the publication of such a decision with regard to measures which are deemed to be of a minor nature.

In the case of a decision to publish an administrative penalty or other administrative measure on an anonymous basis, as referred to in the first subparagraph, point (b), the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication will cease to exist.

3. Where the decision to impose an administrative penalty or other administrative measure is under appeal before the relevant courts or administrative bodies, competent authorities shall publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose administrative penalty or other administrative measure shall also be published.

4. Competent authorities shall ensure that any publication in accordance with this Article remains on their official website for a period of at least five years after its publication. Personal data contained in the publication shall be kept on the official website of the competent authority only for the period which is necessary in accordance with the applicable data protection rules.

Article 115

Reporting of administrative penalties and other administrative measures to ESMA and EBA

1. The competent authority shall, on an annual basis, provide ESMA and EBA with aggregate information regarding all administrative penalties and other administrative measures imposed in accordance with Article 111. ESMA shall publish that information in an annual report.

Where Member States have, in accordance with Article 111(1), second subparagraph, laid down criminal penalties for the infringements of the provisions referred to therein, their competent authorities shall provide EBA and ESMA annually with anonymised and aggregated data regarding all relevant criminal investigations undertaken and criminal penalties imposed. ESMA shall publish data on criminal penalties imposed in an annual report.

2. Where the competent authority has disclosed administrative penalties, other administrative measures or criminal penalties to the public, it shall simultaneously report them to ESMA.

3. Competent authorities shall inform EBA and ESMA of all administrative penalties or other administrative measures imposed but not published, including any appeal in relation thereto and the outcome thereof. Member States shall ensure that competent authorities receive information and the final judgment in relation to any criminal penalty imposed and submit it to EBA and ESMA. ESMA shall maintain a central database of penalties and administrative measures communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be only accessible to EBA, ESMA and the competent authorities and it shall be updated based on the information provided by the competent authorities.

Article 116

Reporting of infringements and protection of reporting persons

Directive (EU) 2019/1937 shall apply to the reporting of infringements of this Regulation and the protection of persons reporting such infringements.

CHAPTER 4**Supervisory responsibilities of EBA with respect to issuers of significant asset-referenced tokens and significant e-money tokens and colleges of supervisors****Article 117****Supervisory responsibilities of EBA with respect to issuers of significant asset-referenced tokens and issuers of significant e-money tokens**

1. Where an asset-referenced token has been classified as significant in accordance with Article 43 or 44, the issuer of such asset-referenced token shall carry out its activities under the supervision of EBA.

Without prejudice to the powers of national competent authorities under paragraph 2 of this Article, EBA shall exercise the powers of competent authorities conferred by Articles 22 to 25, 29, 33 Article 34(7) and (12), Article 35(3) and (5), Article 36(10) and Articles 41, 42, 46 and 47 as regards issuers of significant asset-referenced tokens.

2. Where an issuer of a significant asset-referenced token also provides crypto-asset services or issues crypto-assets that are not significant asset-referenced tokens, those services and activities shall remain under the supervision of the competent authority of the home Member State.

3. Where an asset-referenced token has been classified as significant in accordance with Article 43, EBA shall conduct a supervisory reassessment to ensure that the issuer complies with Title III.

4. Where an e-money token issued by an electronic money institution has been classified as significant in accordance with Article 56 or 57, EBA shall supervise the compliance of the issuer of such significant e-money token with Articles 55 and 58.

For the purposes of the supervision of compliance with Articles 55 and 58, EBA shall exercise the powers of the competent authorities conferred on them by Articles 22 and 23, Article 24(3), Article 35(3) and (5), Article 36(10) and Articles 46 and 47, as regards electronic money institutions issuing significant e-money tokens.

5. EBA shall exercise its supervisory powers as provided in paragraphs 1 to 4 in close cooperation with the other competent authorities responsible for supervising the issuer, in particular:

- (a) the prudential supervisory authority, including, where applicable, the ECB under Regulation (EU) No 1024/2013;
- (b) relevant competent authorities under national law transposing Directive 2009/110/EC, where applicable;
- (c) the competent authorities referred to in Article 20(1).

Article 118

EBA crypto-asset committee

1. EBA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1093/2010 for the purposes of preparing EBA's decisions to be taken in accordance with Article 44 thereof, including decisions relating to the supervisory tasks that have been conferred on EBA by this Regulation.
2. The crypto-asset committee may also prepare decisions in relation to draft regulatory technical standards and draft implementing technical standards relating to supervisory tasks that have been conferred on EBA by this Regulation.
3. EBA shall ensure that the crypto-asset committee performs only the activities referred to in paragraphs 1 and 2 and any other tasks necessary for the performance of its activities related to crypto-assets.

Article 119

Colleges for issuers of significant asset-referenced tokens and significant e-money tokens

1. Within 30 calendar days of a decision to classify an asset-referenced token or e-money token as significant pursuant to Article 43, 44, 56 or 57, as applicable, EBA shall establish, manage and chair a consultative supervisory college for each issuer of a significant asset-referenced token or of a significant e-money token, to facilitate the exercise of supervisory tasks and act as a vehicle for the coordination of supervisory activities under this Regulation.
2. A college referred to in paragraph 1 shall consist of:
 - (a) EBA;
 - (b) ESMA;
 - (c) the competent authorities of the home Member State where the issuer of the significant asset-referenced token or of the significant e-money token is established;
 - (d) the competent authorities of the most relevant crypto-asset service providers, credit institutions or investment firms ensuring the custody of the reserve assets in accordance with Article 37 or of the funds received in exchange of the significant e-money tokens;
 - (e) where applicable, the competent authorities of the most relevant trading platforms for crypto-assets where the significant asset-referenced tokens or the significant e-money tokens are admitted to trading;
 - (f) the competent authorities of the most relevant payment service providers providing payment services in relation to the significant e-money tokens;
 - (g) where applicable, the competent authorities of the entities ensuring the functions as referred to in Article 34(5), first subparagraph, point (h);
 - (h) where applicable, the competent authorities of the most relevant crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients in relation to the significant asset-referenced tokens or with the significant e-money tokens;
 - (i) the ECB;
 - (j) where the issuer of the significant asset-referenced token is established in a Member State whose official currency is not the euro, or where an official currency that is not the euro is referenced by the significant asset-referenced token, the central bank of that Member State;
 - (k) where the issuer of the significant e-money token is established in a Member State whose official currency is not the euro, or where an official currency that is not the euro is referenced by the significant e-money token, the central bank of that Member State;
 - (l) competent authorities of Member States where the asset-referenced token or the e-money token is used at large scale, at their request;
 - (m) relevant supervisory authorities of third countries with which EBA has concluded administrative agreements in accordance with Article 126.

3. EBA may invite other authorities to be members of the college referred to in paragraph 1 where the entities they supervise are relevant to the work of the college.

4. The competent authority of a Member State which is not a member of the college may request from the college any information relevant for the performance of its supervisory duties under this Regulation.

5. A college referred to in paragraph 1 of this Article shall, without prejudice to the responsibilities of competent authorities under this Regulation, ensure:

- (a) the preparation of the non-binding opinion referred to in Article 120;
- (b) the exchange of information in accordance with this Regulation;
- (c) agreement on the voluntary entrustment of tasks among its members.

In order to facilitate the performance of the tasks assigned to colleges pursuant to the first subparagraph of this paragraph, the members of the college referred to in paragraph 2 shall be entitled to contribute to the setting of the agenda of the college meetings, in particular by adding points to the agenda of a meeting.

6. The establishment and functioning of the college referred to in paragraph 1 shall be based on a written agreement between all of its members.

The agreement referred to in the first subparagraph shall determine the practical arrangements for the functioning of the college, including detailed rules on:

- (a) voting procedures as referred in Article 120(3);
- (b) the procedures for setting the agenda of college meetings;
- (c) the frequency of the college meetings;
- (d) the appropriate minimum timeframes for the assessment of the relevant documentation by the members of the college;
- (e) the modalities of communication between the members of the college;
- (f) the creation of several colleges, one for each specific crypto-asset or group of crypto-assets.

The agreement may also determine tasks to be entrusted to EBA or another member of the college.

7. As chair of each college, EBA shall:

- (a) establish written arrangements and procedures for the functioning of the college, after consulting the other members of the college;
- (b) coordinate all activities of the college;
- (c) convene and chair all its meetings and keep the members of the college fully informed in advance of the organisation of meetings of the college, of the main issues to be discussed and of the items to be considered;
- (d) notify the members of the college of any planned meetings so that they can request to participate;
- (e) keep the members of the college informed, in a timely manner, of the decisions and outcomes of those meetings.

8. In order to ensure the consistent and coherent functioning of colleges, EBA, in cooperation with ESMA and the ECB, shall develop draft regulatory standards specifying:

- (a) the conditions under which the entities referred to in paragraph 2, points (d), (e), (f) and (h), are to be considered the most relevant;
- (b) the conditions under which it is considered that asset-referenced tokens or e-money tokens are used at large scale, as referred to in paragraph 2, point (l); and
- (c) the details of the practical arrangements referred to in paragraph 6.

EBA shall submit the draft regulatory standards referred to in the first subparagraph to the Commission by 30 June 2024.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Article 10 to 14 of Regulation (EU) No 1093/2010.

Article 120

Non-binding opinions of the colleges for issuers of significant asset-referenced tokens and significant e-money tokens

1. A college referred to in Article 119(1) may issue a non-binding opinion on the following:
 - (a) the supervisory reassessment as referred to in Article 117(3);
 - (b) any decision to require an issuer of a significant asset-referenced token or a significant e-money token to hold a higher amount of own funds in accordance with Article 35(2), (3) and (5), Article 45(5) and Article 58(1), as applicable;
 - (c) any update of the recovery plan or redemption plan of an issuer of a significant asset-referenced token or an issuer of a significant e-money token pursuant to Articles 46, 47 and 55, as applicable;
 - (d) any change of the business model of an issuer of a significant asset-referenced token pursuant to Article 25(1);
 - (e) a draft modified crypto-asset white paper drawn up in accordance with Article 25(2);
 - (f) any envisaged appropriate corrective measures pursuant to Article 25(4);
 - (g) any envisaged supervisory measures pursuant to Article 130;
 - (h) any envisaged administrative agreement on the exchange of information with a supervisory authority of a third-country in accordance with Article 126;
 - (i) any delegation of supervisory tasks from EBA to a competent authority pursuant to Article 138;
 - (j) any envisaged change in the authorisation of, or any envisaged supervisory measure on, the members of the college referred to in Article 119(2), points (d) to (h);
 - (k) a draft modified crypto-asset white paper drawn up in accordance with Article 51(12).
 2. Where the college issues an opinion in accordance with paragraph 1, at the request of any member of the college and upon adoption by a majority of the college in accordance with paragraph 3, the opinion may include any recommendations aimed at addressing shortcomings of the measure envisaged by EBA or the competent authorities.
 3. An opinion of the college shall be adopted based on a simple majority of its members.
- Where there are several members of the college per Member State, only one of those members shall have a vote.
- Where the ECB is a member of the college in several capacities, including supervisory capacities, it shall have only one vote.
- Supervisory authorities of third countries referred to in Article 119(2), point (m), shall have no voting right in respect of an opinion of the college.
4. EBA or the competent authorities, as applicable, shall duly consider the non-binding opinion of the college reached in accordance with paragraph 3, including any recommendations aimed at addressing shortcomings of

the supervisory measure envisaged in respect of an issuer of a significant asset-referenced token, an issuer of a significant e-money token, an entity or a crypto-asset service provider as referred to in Article 119(2), points (d) to (h). Where EBA or a competent authority does not agree with an opinion of the college, including any recommendations aimed at addressing shortcomings of the supervisory measure envisaged, its decision shall contain its reasons and an explanation for any significant deviation from that opinion or recommendations.

CHAPTER 5

EBA's powers and competences with respect to issuers of significant asset-referenced tokens and issuers of significant e-money tokens

Article 121

Legal privilege

The powers conferred on EBA by Articles 122 to 125, or on any official or other person authorised by EBA, shall not be used to require the disclosure of information which is subject to legal privilege.

Article 122

Request for information

1. In order to carry out its supervisory responsibilities under Article 117, EBA may by simple request or by decision require the following persons to provide all information necessary to enable EBA to carry out its duties under this Regulation:

- (a) an issuer of a significant asset-referenced token or a person controlling or being directly or indirectly controlled by an issuer of a significant asset-referenced token;
- (b) a third party as referred to in Article 34(5), first subparagraph, point (h), with which an issuer of a significant asset-referenced token has a contractual arrangement;
- (c) a crypto-asset service provider, credit institution or investment firm ensuring the custody of the reserve assets in accordance with Article 37;
- (d) an issuer of a significant e-money token or a person controlling or being directly or indirectly controlled by an issuer of a significant e-money token;
- (e) a payment service provider that provides payment services in relation to significant e-money tokens;
- (f) a natural or legal person in charge of distributing significant e-money tokens on behalf of an issuer of significant e-money tokens;
- (g) a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients in relation to significant asset-referenced tokens or significant e-money tokens;
- (h) an operator of a trading platform for crypto-assets that has admitted to trading a significant asset-referenced token or a significant e-money token;
- (i) the management body of the persons referred to in points (a) to (h).

2. A simple request for information as referred to in paragraph 1 shall:

- (a) refer to this Article as the legal basis of that request;
- (b) state the purpose of the request;
- (c) specify the information required;
- (d) include a time limit within which the information is to be provided;
- (e) inform the person from whom the information is requested that it is not obliged to provide the information but that, in the case of a voluntary reply to the request, the information provided is required to be correct and not misleading; and
- (f) indicate the fine provided for in Article 131, where the answers to questions asked are incorrect or misleading.

3. When requiring the provision of information by decision pursuant to paragraph 1, EBA shall:

- (a) refer to this Article as the legal basis of that request;

- (b) state the purpose of the request;
 - (c) specify the information required;
 - (d) set a time limit within which the information is to be provided;
 - (e) indicate the periodic penalty payments provided for in Article 132 where the production of information is required;
 - (f) indicate the fine provided for in Article 131, where the answers to questions asked are incorrect or misleading;
 - (g) indicate the right to appeal the decision before EBA's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 60 and 61 of Regulation (EU) No 1093/2010.
4. The persons referred to in paragraph 1 or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law, shall provide the information requested.
5. EBA shall without delay send a copy of the simple request or of its decision to the competent authority of the Member State where the persons concerned by the request for information are domiciled or established.

Article 123

General investigative powers

1. In order to carry out its supervisory responsibilities under Article 117, EBA may conduct investigations into issuers of significant asset-referenced tokens and issuers of significant e-money tokens. To that end, the officials and other persons authorised by EBA shall be empowered to:

- (a) examine any records, data, procedures and any other material relevant to the execution of its tasks irrespective of the medium on which they are stored;
- (b) take or obtain certified copies of or extracts from such records, data, procedures and other material;
- (c) summon and ask any issuer of a significant asset-referenced token or issuer of a significant of e-money token, or their management body or staff, for oral or written explanations of facts or documents relating to the subject matter and purpose of the investigation and to record the answers;
- (d) interview any other natural or legal person who consents to be interviewed for the purposes of collecting information relating to the subject matter of an investigation;
- (e) request records of telephone and data traffic.

A college as referred to in Article 119(1) shall be informed without undue delay of any findings that might be relevant for the execution of its tasks.

2. The officials and other persons authorised by EBA for the purposes of the investigation referred to in paragraph 1 shall exercise their powers upon the production of a written authorisation specifying the subject matter and purpose of the investigation. That authorisation shall also indicate the periodic penalty payments provided for in Article 132 where the required records, data, procedures or any other material, or the answers to questions posed to issuers of significant asset-referenced tokens or issuers of significant e-money tokens, are not provided or are incomplete, and the fines provided for in Article 131, where the answers to questions posed to issuers of significant asset-referenced tokens or issuers of significant e-money tokens are incorrect or misleading.

3. The issuers of significant asset-referenced tokens and issuers of significant e-money tokens are required to submit to investigations launched based on a decision of EBA. The decision shall specify the subject matter and purpose of the investigation, the periodic penalty payments provided for in Article 132, the legal remedies available under Regulation (EU) No 1093/2010 and the right to have the decision reviewed by the Court of Justice.

4. Within a reasonable period before an investigation referred to in paragraph 1, EBA shall inform the competent authority of the Member State where the investigation is to be carried out of the investigation and of the identity of the authorised persons. Officials of the competent authority concerned shall, upon the request of EBA, assist those authorised persons in carrying out their duties. Officials of the competent authority concerned may also attend the investigations upon request.

5. If a request for records of telephone or data traffic referred to in paragraph 1, first subparagraph, point (e), requires authorisation from a court pursuant to applicable national law, EBA shall apply for such authorisation. Such authorisation may also be applied for as a precautionary measure.

6. Where a court in a Member State receives an application for the authorisation of a request for records of telephone or data traffic referred to in paragraph 1, first subparagraph, point (e), that court shall verify whether:

- (a) the decision of EBA referred to in paragraph 3 is authentic;

(b) any measures to be taken are proportionate and not arbitrary or excessive.

7. For the purposes of paragraph 6, point (b), the court may ask EBA for detailed explanations, in particular relating to the grounds EBA has for suspecting that an infringement of this Regulation has taken place, the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. That court shall, however, not review the necessity for the investigation or demand that it be provided with the information on EBA's file. The lawfulness of EBA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1093/2010.

Article 124

On-site inspections

1. In order to carry out its supervisory responsibilities under Article 117, EBA may conduct all necessary on-site inspections at any business premises of the issuers of significant asset-referenced tokens and issuers of significant e-money tokens.

The college referred to in Article 119 shall be informed without undue delay of any findings that might be relevant for the execution of its tasks.

2. The officials and other persons authorised by EBA to conduct an on-site inspection may enter any business premises of the persons subject to an investigation decision adopted by EBA and shall have all of the powers provided for in Article 123(1). They shall also have the power to seal any business premises and books or records for the period of, and to the extent necessary for, the inspection.

3. In due time before the inspection, EBA shall give notice of the inspection to the competent authority of the Member State where the inspection is to be conducted. Where the proper conduct and efficiency of the inspection so require, EBA, after informing that competent authority, may carry out the on-site inspection without giving prior notice to the issuer of the significant asset-referenced token or the issuer of the significant e-money token.

4. The officials and other persons authorised by EBA to conduct an on-site inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the periodic penalty payments provided for in Article 132 where the persons concerned do not submit to the inspection.

5. The issuer of the significant asset-referenced token or the issuer of the significant e-money token shall submit to on-site inspections ordered by a decision of EBA. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the periodic penalty payments provided for in Article 132, the legal remedies available under Regulation (EU) No 1093/2010 as well as the right to have the decision reviewed by the Court of Justice.

6. Officials of, as well as those authorised or appointed by, the competent authority of the Member State where the inspection is to be conducted shall, at the request of EBA, actively assist the officials and other persons authorised by EBA. Officials of the competent authority of the Member State concerned may also attend the on-site inspections.

7. EBA may also require competent authorities to carry out specific investigatory tasks and on-site inspections as provided for in this Article and in Article 123(1) on its behalf.

8. Where the officials and other accompanying persons authorised by EBA find that a person opposes an inspection ordered pursuant to this Article, the competent authority of the Member State concerned shall afford them the necessary assistance, requesting, where appropriate, the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their on-site inspection.

9. If the on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7 requires authorisation by a court pursuant to national law, EBA shall make an application for such authorisation. Such authorisation may also be applied for as a precautionary measure.

10. Where a court in a Member State receives an application for the authorisation of an on-site inspection provided for in paragraph 1 or the assistance provided for in paragraph 7, that court shall verify whether:

- (a) the decision adopted by EBA referred to in paragraph 4 is authentic;
- (b) any measures to be taken are proportionate and not arbitrary or excessive.

11. For the purposes of paragraph 10, point (b), the court may ask EBA for detailed explanations, in particular relating to the grounds EBA has for suspecting that an infringement of this Regulation has taken place, the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. That court shall, however, not review the necessity for the investigation or demand that it be provided with the information on EBA's file. The lawfulness of EBA's decision shall be subject to review only by the Court of Justice following the procedure set out in Regulation (EU) No 1093/2010.

Article 125

Exchange of information

1. In order to carry out EBA's supervisory responsibilities under Article 117 and without prejudice to Article 96, EBA and the competent authorities shall provide each other with the information required for the purposes of carrying out their duties under this Regulation without undue delay. For that purpose, the competent authorities and EBA shall exchange any information related to:

- (a) an issuer of a significant asset-referenced token or a person controlling or being directly or indirectly controlled by an issuer of a significant asset-referenced token;
- (b) a third party as referred to in Article 34(5), first subparagraph, point (h), with which an issuer of a significant asset-referenced token has a contractual arrangement;
- (c) a crypto-asset service provider, credit institution or investment firm ensuring the custody of the reserve assets in accordance with Article 37;
- (d) an issuer of a significant e-money token or a person controlling or being directly or indirectly controlled by an issuer of a significant e-money token;
- (e) a payment service provider that provides payment services in relation to significant e-money tokens;
- (f) a natural or legal person in charge of distributing significant e-money tokens on behalf of the issuer of significant e-money tokens;
- (g) a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients, in relation to significant asset-referenced tokens or significant e-money tokens;
- (h) a trading platform for crypto-assets on which a significant asset-referenced token or a significant e-money token has been admitted to trading;
- (i) the management body of the persons referred to in points (a) to (h).

2. A competent authority may refuse to act on a request to exchange information as provided for in paragraph 1 of this Article or a request for cooperation in carrying out an investigation or an on-site inspection as provided for in Articles 123 and 124, respectively, only where:

- (a) complying with the request is likely to adversely affect its own investigation, enforcement activities or, where applicable, criminal investigation;
- (b) judicial proceedings have already been initiated in respect of the same actions and against the same natural or legal persons before the courts of the Member State addressed;
- (c) a final judgment has already been delivered in relation to such natural or legal person for the same actions in the Member State addressed.

Article 126

Administrative agreements on the exchange of information between EBA and third countries

1. In order to carry out its supervisory responsibilities under Article 117, EBA may conclude administrative agreements on the exchange of information with the supervisory authorities of third countries only if the information disclosed is subject to guarantees of professional secrecy which are at least equivalent to those set out in Article 129.
2. The exchange of information shall be intended for the performance of the tasks of EBA or of the supervisory authorities referred to in paragraph 1.
3. With regard to transfers of personal data to a third country, EBA shall apply Regulation (EU) 2018/1725.

Article 127

Disclosure of information from third countries

1. EBA may disclose information received from supervisory authorities of third countries only where EBA or the competent authority that provided the information to EBA has obtained the express agreement of the supervisory authority of a third country that has transmitted the information and, where applicable, the information is disclosed only for the purposes for which that supervisory authority gave its agreement or where such disclosure is necessary for judicial proceedings.
2. The requirement for an express agreement as referred to in paragraph 1 shall not apply to other supervisory authorities of the Union where the information requested by them is needed for the fulfilment of their tasks and shall not apply to courts where the information requested by them is needed for investigations or proceedings in respect of infringements subject to criminal penalties.

Article 128

Cooperation with other authorities

Where an issuer of a significant asset-referenced token or an issuer of a significant e-money token engages in activities other than those covered by this Regulation, EBA shall cooperate with the authorities responsible for the supervision of such other activities as provided for in the relevant Union or national law, including tax authorities and relevant supervisory authorities of third countries that are not members of the college as referred to in Article 119(2), point (m).

Article 129

Professional secrecy

The obligation of professional secrecy shall apply to EBA and all persons who work or who have worked for EBA as well as for any other person to whom EBA has delegated tasks, including auditors and experts contracted by EBA.

Article 130

Supervisory measures by EBA

1. Where EBA finds that an issuer of a significant asset-referenced token has committed an infringement as listed in Annex V, it may take one or more of the following measures:

- (a) adopt a decision requiring the issuer of the significant asset-referenced token to cease the conduct constituting the infringement;
- (b) adopt a decision imposing fines or periodic penalty payments pursuant to Articles 131 and 132;
- (c) adopt a decision requiring the issuer of the significant asset-referenced token to transmit supplementary information, where necessary for the protection of holders of the asset-referenced token, in particular retail holders;
- (d) adopt a decision requiring the issuer of the significant asset-referenced token to suspend an offer to the public of crypto-assets for a maximum period of 30 consecutive working days on any single occasion where it has reasonable grounds for suspecting that this Regulation has been infringed;
- (e) adopt a decision prohibiting an offer to the public of the significant asset-referenced token where it finds that this Regulation has been infringed or where it has reasonable grounds for suspecting that it will be infringed;
- (f) adopt a decision requiring the crypto-asset service provider operating a trading platform for crypto-assets that has admitted to trading the significant asset-referenced token to suspend trading of such crypto-asset for a maximum of 30 consecutive working days on any single occasion where it has reasonable grounds for suspecting that this Regulation has been infringed;
- (g) adopt a decision prohibiting trading of the significant asset-referenced token on a trading platform for crypto-assets where it finds that this Regulation has been infringed;
- (h) adopt a decision requiring the issuer of the significant asset-referenced token to amend its marketing communications, where it finds that the marketing communications do not comply with Article 29;
- (i) adopt a decision to suspend or prohibit marketing communications where there are reasonable grounds for suspecting that this Regulation has been infringed;
- (j) adopt a decision requiring the issuer of the significant asset-referenced token to disclose all material information which might have an effect on the assessment of the significant asset-referenced token offered to the public or admitted to trading in order to ensure consumer protection or the smooth operation of the market;
- (k) issue warnings that the issuer of the significant asset-referenced token fails to fulfil its obligations under this Regulation;
- (l) withdraw the authorisation of the issuer of the significant asset-referenced token;
- (m) adopt a decision requiring the removal of a natural person from the management body of the issuer of the significant asset-referenced token;
- (n) require the issuer of the significant asset-referenced token under its supervision to introduce a minimum denomination amount in respect of that significant asset-referenced token or to limit the amount of the significant asset-referenced token issued, in accordance with Article 23(4) and Article 24(3).

2. Where EBA finds that an issuer of a significant e-money token has committed an infringement as listed in Annex VI, it may take one or more of the following measures:

- (a) adopt a decision requiring the issuer of the significant e-money token to cease the conduct constituting the infringement;
- (b) adopt a decision imposing fines or periodic penalty payments pursuant to Articles 131 and 132;
- (c) adopt a decision requiring the issuer of the significant e-money token to transmit supplementary information where necessary for the protection of holders of the significant e-money token, in particular retail holders;
- (d) adopt a decision requiring the issuer of the significant e-money token to suspend an offer to the public of crypto-assets for a maximum period of 30 consecutive working days on any single occasion where it has reasonable grounds for suspecting that this Regulation has been infringed;
- (e) adopt a decision prohibiting an offer to the public of the significant e-money token where it finds that this Regulation has been infringed or where it has reasonable grounds for suspecting that it will be infringed;
- (f) adopt a decision requiring the relevant crypto-asset service provider operating a trading platform for crypto-assets that has admitted to trading significant e-money tokens to suspend trading of such crypto-assets for a maximum of 30 consecutive working days on any single occasion where it has reasonable grounds for suspecting that this Regulation has been infringed;
- (g) adopt a decision prohibiting trading of significant e-money tokens on a trading platform for crypto-assets where it finds that this Regulation has been infringed;
- (h) adopt a decision requiring the issuer of the significant e-money token to disclose all material information which might have an effect on the assessment of the significant e-money token offered to the public or admitted to trading in order to ensure consumer protection or the smooth operation of the market;
- (i) issue warnings that the issuer of the significant e-money token fails to fulfil its obligations under this Regulation;
- (j) require the issuer of the significant e-money token under its supervision to introduce a minimum denomination amount in respect of that significant e-money token or to limit the amount of the significant e-money token issued, as a result of the application of Article 58(3).

3. When taking the measures referred to in paragraph 1 or 2, EBA shall take into account the nature and seriousness of the infringement, having regard to:

- (a) the duration and frequency of the infringement;
- (b) whether financial crime has been occasioned, facilitated or is otherwise attributable to the infringement;
- (c) whether the infringement has revealed serious or systemic weaknesses in the procedures, policies and risk management measures of the issuer of the significant asset-referenced token or the issuer of the significant e-money tokens;
- (d) whether the infringement has been committed intentionally or negligently;
- (e) the degree of responsibility of the issuer of the significant asset-referenced token or the issuer of the significant e-money token responsible for the infringement;

- (f) the financial strength of the issuer of the significant asset-referenced token, or of the issuer of the significant e-money token, responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (g) the impact of the infringement on the interests of holders of significant asset-referenced tokens or significant e-money tokens;
- (h) the importance of the profits gained, losses avoided by the issuer of the significant asset-referenced token or significant e-money token responsible for the infringement or the losses for third parties caused by the infringement, insofar as they can be determined;
- (i) the level of cooperation of the issuer of the significant asset-referenced token or of the issuer of the significant e-money token responsible for the infringement with EBA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (j) previous infringements by the issuer of the significant asset-referenced token or by the issuer of the e-money token responsible for the infringement;
- (k) measures taken by the issuer of the significant asset-referenced token or by the issuer of the significant e-money token after the infringement to prevent the repetition of such an infringement.

4. Before taking any of the measures as referred to in paragraph 1, points (d) to (g), and point (j), EBA shall inform ESMA and, where the significant asset-referenced tokens are referencing the euro or an official currency of a Member State that is not the euro, the ECB or the central bank of the Member State concerned issuing that official currency, respectively.

5. Before taking any of the measures as referred to in paragraph 2, EBA shall inform the competent authority of the issuer of the significant e-money token and the central bank of the Member State whose official currency the significant e-money token is referencing.

6. EBA shall notify any measure taken pursuant to paragraph 1 or 2 to the issuer of the significant asset-referenced token or the issuer of the significant e-money token responsible for the infringement without undue delay and shall communicate that measure to the competent authorities concerned as well as to the Commission. EBA shall publicly disclose any such decision on its website within 10 working days of the date of adoption of such decision, unless such disclosure would seriously jeopardise financial stability or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data.

7. The disclosure to the public referred to in paragraph 6 shall include the following statements:

- (a) a statement affirming the right of the person responsible for the infringement to appeal the decision before the Court of Justice;
- (b) where relevant, a statement affirming that an appeal has been lodged and specifying that such an appeal does not have suspensive effect;
- (c) a statement asserting that it is possible for EBA's Board of Appeal to suspend the application of the contested decision in accordance with Article 60(3) of Regulation (EU) No 1093/2010.

Article 131

Fines

1. EBA shall adopt a decision imposing a fine in accordance with paragraph 3 or 4 of this Article where, in accordance with Article 134(8), it finds that:

- (a) an issuer of a significant asset-referenced token or a member of its management body has, intentionally or negligently, committed an infringement as listed in Annex V;
- (b) an issuer of a significant e-money token or a member of its management body has, intentionally or negligently, committed an infringement as listed in Annex VI.

An infringement shall be considered to have been committed intentionally if EBA finds objective factors which demonstrate that such an issuer or a member of its management body acted deliberately to commit the infringement.

2. When adopting a decision as referred to in paragraph 1, EBA shall take into account the nature and seriousness of the infringement, having regard to:

- (a) the duration and frequency of the infringement;
- (b) whether financial crime has been occasioned, facilitated or is otherwise attributable to the infringement;
- (c) whether the infringement has revealed serious or systemic weaknesses in the issuer of the significant asset-referenced token's or in the issuer of the significant e-money token's procedures, policies and risk management measures;
- (d) whether the infringement has been committed intentionally or negligently;
- (e) the degree of responsibility of the issuer of the significant asset-referenced token or the issuer of the significant e-money token responsible for the infringement;
- (f) the financial strength of the issuer of the significant asset-referenced token, or of the issuer of the significant e-money token, responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (g) the impact of the infringement on the interests of holders of significant asset-referenced tokens or significant e-money tokens;
- (h) the importance of the profits gained, losses avoided by the issuer of the significant asset-referenced token or the significant e-money token responsible for the infringement or the losses for third parties caused by the infringement, insofar as they can be determined;
- (i) the level of cooperation of the issuer of the significant asset-referenced token or of the issuer of the significant e-money token responsible for the infringement with EBA, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (j) previous infringements by the issuer of the significant asset-referenced token or by the issuer of the significant e-money token responsible for the infringement;
- (k) measures taken by the issuer of the significant asset-referenced token or by the issuer of the significant e-money token after the infringement to prevent the repetition of such an infringement.

3. For issuers of significant asset-referenced tokens, the maximum amount of the fine referred to in paragraph 1 shall be up to 12,5 % of its annual turnover in the preceding business year, or twice the amount or profits gained or losses avoided because of the infringement where those can be determined.

4. For issuers of significant e-money tokens, the maximum amount of the fine referred to in paragraph 1 shall be up to 10 % of its annual turnover in the preceding business year, or twice the amount or profits gained or losses avoided because of the infringement where those can be determined.

Article 132

Periodic penalty payments

1. EBA shall adopt a decision imposing periodic penalty payments in order to compel:
 - (a) a person to cease the conduct constituting an infringement in accordance with a decision taken pursuant to Article 130;
 - (b) a person referred to in Article 122(1):
 - (i) to provide complete information which has been requested by a decision pursuant to Article 122;
 - (ii) to submit to an investigation and in particular to produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision pursuant to Article 123;
 - (iii) to submit to an on-site inspection ordered by a decision taken pursuant to Article 124.
2. A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed for each day of delay.
3. Notwithstanding paragraph 2, the amount of the periodic penalty payments shall be 3 % of the average daily turnover in the preceding business year or, in the case of natural persons, 2 % of the average daily income in the preceding calendar year. It shall be calculated from the date set out in EBA's decision imposing the periodic penalty payment.
4. A periodic penalty payment shall be imposed for a maximum period of six months following the notification of EBA's decision. At the end of that period, EBA shall review the measure.

Article 133

Disclosure, nature, enforcement and allocation of fines and periodic penalty payments

1. EBA shall disclose to the public every fine and periodic penalty payment that has been imposed pursuant to Articles 131 and 132, unless such disclosure to the public would seriously jeopardise financial stability or cause disproportionate damage to the parties involved. Such disclosure shall not contain personal data.
2. Fines and periodic penalty payments imposed pursuant to Articles 131 and 132 shall be of an administrative nature.
3. Fines and periodic penalty payments imposed pursuant to Articles 131 and 132 shall be enforceable in accordance with the rules of civil procedure in force in the State in the territory of which the fine or periodic penalty payment is enforced.
4. The amounts of the fines and periodic penalty payments shall be allocated to the general budget of the Union.
5. Where, notwithstanding Articles 131 and 132, EBA decides not to impose fines or penalty payments, it shall inform the European Parliament, the Council, the Commission, and the competent authorities of the Member State concerned and shall set out the reasons for its decision.

Article 134

Procedural rules for taking supervisory measures and imposing fines

1. Where, in carrying out its supervisory responsibilities under Article 117, there are clear and demonstrable grounds to suspect that there has been or will be an infringement as listed in Annex V or VI, EBA shall appoint an independent investigation officer within EBA to investigate the matter. The investigation officer shall not be involved or have been directly or indirectly involved in the supervision of the issuers of significant asset-referenced tokens or issuers of significant e-money tokens concerned and shall perform its functions independently from EBA.
2. The investigation officer shall investigate the alleged infringements, taking into account any comments submitted by the persons who are subject to the investigation, and shall submit a complete file with the investigation officer's findings to EBA.
3. In order to carry out its tasks, the investigation officer may exercise the power to request information in accordance with Article 122 and the power to conduct investigations and on-site inspections in accordance with Articles 123 and 124. When using those powers, the investigation officer shall comply with Article 121.
4. Where carrying out its tasks, the investigation officer shall have access to all documents and information gathered by EBA in its supervisory activities.
5. Upon completion of its investigation and before submitting the file with its findings to EBA, the investigation officer shall give the persons subject to the investigation the opportunity to be heard on the matters being investigated. The investigation officer shall base its findings only on facts on which the persons concerned have had the opportunity to comment.
6. The rights of the defence of the persons concerned shall be fully respected during investigations under this Article.
7. When submitting the file with its findings to EBA, the investigation officer shall notify the persons who are subject to the investigation thereof. The persons subject to the investigation shall be entitled to have access to the file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties or EBA's internal preparatory documents.
8. Based on the file containing the investigation officer's findings and, when requested by the persons subject to the investigation, after having heard those persons in accordance with Article 135, EBA shall decide whether an infringement as listed in Annex V or VI has been committed by the issuer of the significant asset-referenced token or the issuer of the significant e-money token subject to the investigation and, in such a case, shall take a supervisory measure in accordance with Article 130 or impose a fine in accordance with Article 131.
9. The investigation officer shall not participate in EBA's deliberations or in any other way intervene in EBA's decision-making process.
10. The Commission shall adopt delegated acts in accordance with Article 139 by 30 June 2024 to supplement this Regulation by specifying further the procedural rules for the exercise of the power to impose fines or periodic penalty payments, including provisions on the rights of the defence, temporal provisions, the collection of fines or periodic penalty payments and the limitation periods for the imposition and enforcement of fines and periodic penalty payments.
11. EBA shall bring matters to the attention of the relevant national authorities for investigation and, where appropriate, criminal prosecution where, in carrying out its duties under this Regulation, it finds that there are

serious indications of the possible existence of facts liable to constitute criminal offences. In addition, EBA shall refrain from imposing fines or periodic penalty payments where it is aware that a prior acquittal or conviction arising from an identical fact or facts which are substantially the same has already acquired the force of *res judicata* as a result of criminal proceedings under national law.

Article 135

Hearing of the persons concerned

1. Before taking any decision pursuant to Article 130, 131 or 132, EBA shall give the persons subject to an investigation the opportunity to be heard on its findings. EBA shall base its decisions only on findings on which the persons subject to such investigation have had an opportunity to comment.
2. Paragraph 1 shall not apply if urgent action is needed in order to prevent significant and imminent damage to financial stability or to the holders of crypto-assets, in particular retail holders. In such a case, EBA may adopt an interim decision and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision.
3. The rights of the defence of the persons subject to an investigation shall be fully respected. Those persons shall be entitled to have access to EBA's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to EBA's file shall not extend to confidential information or to EBA's internal preparatory documents.

Article 136

Review by the Court of Justice

The Court of Justice shall have unlimited jurisdiction to review decisions whereby EBA has imposed a fine, a periodic penalty payment or any administrative penalty or other administrative measure in accordance with this Regulation. It may annul, reduce or increase the fine or periodic penalty payment imposed.

Article 137

Supervisory fees

1. EBA shall charge fees to issuers of significant asset-referenced tokens and issuers of significant e-money tokens. Those fees shall cover EBA's expenditure for the execution of its supervisory tasks relating to issuers of significant asset-referenced tokens and issuers of significant e-money tokens in accordance with Articles 117 and 119, as well as the reimbursement of costs that the competent authorities might incur carrying out work under this Regulation, in particular as a result of any delegation of tasks in accordance with Article 138.
2. The amount of the fee charged to an individual issuer of a significant asset-referenced token shall be proportionate to the size of its reserve assets and shall cover all costs incurred by EBA for the performance of its supervisory tasks under this Regulation.

The amount of the fee charged to an individual issuer of a significant e-money token shall be proportionate to the size of issuance of the e-money token in exchange for funds and shall cover all costs derived from the execution of EBA's supervisory tasks under this Regulation, including the reimbursement of any costs incurred as a result of the execution of those tasks.

3. The Commission shall adopt a delegated act in accordance with Article 139 by 30 June 2024 to supplement this Regulation by specifying further the type of fees, the matters for which fees are due, the amount of the fees and the manner in which they are to be paid and the methodology to calculate the maximum amount per entity referred to in paragraph 2 of this Article that can be charged by EBA.

Article 138

Delegation of tasks by EBA to competent authorities

1. Where necessary for the proper performance of a supervisory task in respect of issuers of significant asset-referenced tokens or issuers of significant e-money tokens, EBA may delegate specific supervisory tasks to a competent authority. Such specific supervisory tasks may include the power to carry out requests for information in accordance with Article 122 and to conduct investigations and on-site inspections in accordance with Article 123 or 124.
2. Before delegating a task as referred to in paragraph 1, EBA shall consult the relevant competent authority about:
 - (a) the scope of the task to be delegated;
 - (b) the timetable for the performance of the task; and
 - (c) the transmission of necessary information by and to EBA.
3. In accordance with the delegated act on fees adopted by the Commission pursuant to Article 137(3) and Article 139, EBA shall reimburse a competent authority for the costs incurred as a result of carrying out delegated tasks.
4. EBA shall review the delegation of tasks at appropriate intervals. Such delegation may be revoked at any time.

TITLE VIII

DELEGATED ACTS

Article 139

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3(2), 43(11), 103(8), 104(8), 105(7), 134(10) and 137(3) shall be conferred on the Commission for a period of 36 months from 29 June 2023. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 36-month period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in Articles 3(2), 43(11), 103(8), 104(8), 105(7), 134(10) and 137(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 3(2), 43(11), 103(8), 104(8), 105(7), 134(10) and 137(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months on the initiative of the European Parliament or of the Council.

TITLE IX

TRANSITIONAL AND FINAL PROVISIONS

Article 140

Reports on the application of this Regulation

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.
2. The reports referred to in paragraph 1 shall contain the following:
 - (a) the number of issuances of crypto-assets in the Union, the number of crypto-asset white papers submitted or notified to the competent authorities, the type of crypto-assets issued and their market capitalisation and the number of crypto-assets admitted to trading;
 - (b) a description of the experience with the classification of crypto-assets including possible divergences in approaches by competent authorities;
 - (c) an assessment of the necessity of the introduction of an approval mechanism for crypto-asset white papers for crypto-assets other than asset-referenced tokens and e-money tokens;
 - (d) an estimate of the number of Union residents using or investing in crypto-assets issued in the Union;
 - (e) where possible, an estimate of the number of Union residents using or investing in crypto-assets issued outside the Union and an explanation of the availability of data in that respect;
 - (f) the number and value of fraud, scams, hacks, the use of crypto-assets for payments related to ransomware attacks, cyber-attacks, thefts or losses of crypto-assets reported in the Union, types of fraudulent behaviour, the number of complaints received by crypto-asset service providers and issuers of asset-referenced tokens, the number of complaints received by competent authorities and the subjects of the complaints received;
 - (g) the number of issuers of asset-referenced tokens and an analysis of the categories of reserve assets, the size of the reserves of assets and the volume of payments made in asset-referenced tokens;
 - (h) the number of issuers of significant asset-referenced tokens and an analysis of the categories of reserve assets, the size of the reserves of assets and the volume of payments made in significant asset-referenced tokens;
 - (i) the number of issuers of e-money tokens and an analysis of the official currencies referenced by the e-money tokens, the composition and the size of the funds deposited or invested in accordance with Article 54 and the volume of payments made in e-money tokens;
 - (j) the number of issuers of significant e-money tokens and an analysis of the official currencies referenced by the significant e-money tokens and, for electronic money institutions issuing significant e-money tokens, an analysis of the categories of reserve assets, the size of the reserves of assets, and the volume of payments made in significant e-money tokens;
 - (k) the number of significant crypto-asset service providers;

- (l) an assessment of the functioning of the markets in crypto-assets in the Union, including of market development and trends, taking into account the experience of the supervisory authorities, the number of authorised crypto-asset service providers and their respective average market share;
- (m) an assessment of the level of protection of holders of crypto-assets and clients of crypto-asset service providers, in particular retail holders;
- (n) an assessment of fraudulent marketing communications and scams involving crypto-assets occurring through social media networks;
- (o) an assessment of the requirements applicable to issuers of crypto-assets and crypto-asset service providers and their impact on operational resilience, market integrity, financial stability, and the protection of clients and holders of crypto-assets;
- (p) an evaluation of the application of Article 81 and of the possibility of introducing appropriateness tests in Articles 78, 79 and 80 in order to better protect clients of crypto-asset service providers, especially retail holders;
- (q) an assessment of whether the scope of crypto-asset services covered by this Regulation is appropriate and whether any adjustment to the definitions set out in this Regulation is needed, as well as whether any additional innovative crypto-asset forms need to be included in the scope of this Regulation;
- (r) an assessment of whether the prudential requirements for crypto-asset service providers are appropriate and whether they should be aligned with the requirements for initial capital and own funds applicable to investment firms under Regulation (EU) 2019/2033 of the European Parliament and of the Council⁴⁷ and Directive (EU) 2019/2034 of the European Parliament and of the Council⁴⁸;
- (s) an assessment of the appropriateness of the thresholds to classify asset-referenced tokens and e-money tokens as significant as set out in Article 43(1), points (a), (b) and (c), and an assessment of whether the thresholds should be evaluated periodically;
- (t) an assessment of the development of decentralised finance in markets in crypto-assets and of the appropriate regulatory treatment of decentralised crypto-asset systems;
- (u) an assessment of the appropriateness of the thresholds to consider crypto-asset service providers as significant pursuant to Article 85, and an assessment of whether the thresholds should be evaluated periodically;
- (v) an assessment of whether an equivalence regime should be established under this Regulation for entities providing crypto-asset services, issuers of asset-referenced tokens or issuers of e-money tokens from third countries;
- (w) an assessment of whether the exemptions under Articles 4 and 16 are appropriate;
- (x) an assessment of the impact of this Regulation on the proper functioning of the internal market with regard to crypto-assets, including any impact on the access to finance for SMEs and on the development of new means of payment, including payment instruments;

⁴⁷ Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

⁴⁸ Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64).

- (y) a description of developments in business models and technologies in markets in crypto-assets with a particular focus on the environmental and climate-related impact of new technologies, as well as an assessment of policy options and where necessary any additional measures that might be warranted to mitigate the adverse impacts on the climate and other environment-related adverse impacts of the technologies used in markets in crypto-assets and, in particular, of the consensus mechanisms used to validate crypto-asset transactions;
 - (z) an appraisal of whether any changes are needed to the measures set out in this Regulation to ensure the protection of clients and holders of crypto-assets, market integrity and financial stability;
 - (aa) the application of administrative penalties and other administrative measures;
 - (ab) an evaluation of the cooperation between the competent authorities, EBA, ESMA, central banks, as well as other relevant authorities, including with regards to the interaction between their responsibilities or tasks, and an assessment of the advantages and disadvantages of the competent authorities of the Member States and EBA, respectively, being responsible for supervision under this Regulation;
 - (ac) an evaluation of the cooperation between the competent authorities and ESMA regarding the supervision of significant crypto-asset service providers, and an assessment of the advantages and disadvantages of the competent authorities of the Member States and ESMA, respectively, being responsible for the supervision of significant crypto-asset service providers under this Regulation;
 - (ad) the costs for issuers of crypto-assets other than asset-referenced tokens and e-money tokens, to comply with this Regulation as a percentage of the amount raised through crypto-asset issuances;
 - (ae) the costs for issuers of asset-referenced tokens and issuers of e-money tokens to comply with this Regulation as a percentage of their operational costs;
 - (af) the costs for crypto-asset service providers to comply with this Regulation as a percentage of their operational costs;
 - (ag) the number and amount of administrative fines and criminal penalties imposed for infringements of this Regulation by competent authorities and EBA.
3. Where applicable, the reports referred to in paragraph 1 of this Article shall also follow up on the topics addressed in the reports referred to in Articles 141 and 142.

Article 141

ESMA annual report on market developments

By 31 December 2025 and every year thereafter, ESMA, in close cooperation with EBA, shall submit a report to the European Parliament and to the Council on the application of this Regulation and developments in markets in crypto-assets. The report shall be made publicly available.

The report shall contain the following:

- (a) the number of issuances of crypto-assets in the Union, the number of crypto-asset white papers submitted or notified to the competent authorities, the type of crypto-asset issued and their market capitalisation, and the number of crypto-assets admitted to trading;
- (b) the number of issuers of asset-referenced tokens, and an analysis of the categories of reserve assets, the size of the reserves of assets and the volume of transactions in asset-referenced tokens;
- (c) the number of issuers of significant asset-referenced tokens, and an analysis of the categories of reserve assets, the size of the reserves of assets and the volume of transactions in significant asset-referenced tokens;
- (d) the number of issuers of e-money tokens, and an analysis of the official currencies referenced by the e-money tokens, the composition and the size of the funds deposited or invested in accordance with Article 54, and the volume of payments made in e-money tokens;
- (e) the number of issuers of significant e-money tokens, and an analysis of the official currencies referenced by the significant e-money tokens, and, for electronic money institutions issuing significant e-money tokens, an analysis of the categories of reserve assets, the size of the reserves of assets, and the volume of payments made in significant e-money tokens;
- (f) the number of crypto-asset service providers, and the number of significant crypto-asset service providers;
- (g) an estimate of the number of Union residents using or investing in crypto-assets issued in the Union;
- (h) where possible, an estimate of the number of Union residents using or investing in crypto-assets issued outside the Union and an explanation of the availability of data in that respect;
- (i) a mapping of the geographical location and level of know-your-customer and customer due diligence procedures of unauthorised exchanges providing services in crypto-assets to Union residents, including the number of exchanges without a clear domiciliation and the number of exchanges located in jurisdictions included in the list of high-risk third countries for the purposes of Union rules on anti-money laundering and counter-terrorist financing or in the list of non-cooperative jurisdictions for tax purposes, classified by the level of compliance with adequate know-your-customer procedures;
- (j) the proportion of transactions in crypto-assets that occur through a crypto-asset service provider or unauthorised service provider or peer-to-peer, and their transaction volume;
- (k) the number and value of fraud, scams, hacks, the use of crypto-assets for payments related to ransomware attacks, cyber-attacks, thefts or losses of crypto-assets reported in the Union, types of fraudulent behaviour, the number of complaints received by crypto-asset service providers and issuers of asset-referenced tokens, the number of complaints received by competent authorities and the subjects of the complaints received;

(l) the number of complaints received by crypto-asset service providers, issuers and competent authorities in relation to false and misleading information contained in crypto-asset white papers or in marketing communications, including via social media platforms;

(m) possible approaches and options, based on best practices and reports by relevant international organisations, to reduce the risk of circumvention of this Regulation, including in relation to the provision of crypto-asset services by third-country actors in the Union without authorisation.

Competent authorities shall provide ESMA with the information necessary for the preparation of the report. For the purposes of the report, ESMA may request information from law enforcement agencies.

Article 142

Report on latest developments in crypto-assets

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. The report referred to in paragraph 1 shall contain at least the following:
 - (a) an assessment of the development of decentralised-finance in markets in crypto-assets and of the appropriate regulatory treatment of decentralised crypto-asset systems without an issuer or crypto-asset service provider, including an assessment of the necessity and feasibility of regulating decentralised finance;
 - (b) an assessment of the necessity and feasibility of regulating lending and borrowing of crypto-assets;
 - (c) an assessment of the treatment of services associated to the transfer of e-money tokens, where not addressed in the context of the review of Directive (EU) 2015/2366;
 - (d) an assessment of the development of markets in unique and non-fungible crypto-assets and of the appropriate regulatory treatment of such crypto-assets, including an assessment of the necessity and feasibility of regulating offerors of unique and non-fungible crypto-assets as well as providers of services related to such crypto-assets.

Article 143

Transitional measures

1. Articles 4 to 15 shall not apply to offers to the public of crypto-assets that ended before 30 December 2024.
2. By way of derogation from Title II, only the following requirements shall apply in relation to crypto-assets other than asset-referenced tokens and e-money tokens that were admitted to trading before 30 December 2024:
 - (a) Articles 7 and 9 shall apply to marketing communications published after 30 December 2024;
 - (b) operators of trading platforms shall ensure by 31 December 2027 that a crypto-asset white paper, in the cases required by this Regulation, is drawn up, notified and published in accordance with Articles 6, 8 and 9 and updated in accordance with Article 12.
3. Crypto-asset service providers that provided their services in accordance with applicable law before 30 December 2024, may continue to do so until 1 July 2026 or until they are granted or refused an authorisation pursuant to Article 63, whichever is sooner.

Member States may decide not to apply the transitional regime for crypto-asset service providers provided for in the first subparagraph or to reduce its duration where they consider that their national regulatory framework applicable before 30 December 2024 is less strict than this Regulation.

By 30 June 2024, Member States shall notify to the Commission and ESMA whether they have exercised the option provided for in the second subparagraph and the duration of the transitional regime.

4. Issuers of asset-referenced tokens other than credit institutions that issued asset-referenced tokens in accordance with applicable law before 30 June 2024, may continue to do so until they are granted or refused an authorisation pursuant to Article 21, provided that they apply for authorisation before 30 July 2024.
5. Credit institutions that issued asset-referenced tokens in accordance with applicable law before 30 June 2024, may continue to do so until the crypto-asset white paper has been approved or has failed to be approved pursuant to Article 17 provided that they notify their competent authority pursuant to paragraph 1 of that Article before 30 July 2024.
6. By way of derogation from Articles 62 and 63, Member States may apply a simplified procedure for applications for an authorisation that are submitted between 30 December 2024 and 1 July 2026 by entities that on 30 December 2024, were authorised under national law to provide crypto-asset services. The competent authorities shall ensure that Chapters 2 and 3 of Title V are complied with before granting authorisation pursuant to such simplified procedures.
7. EBA shall exercise its supervisory responsibilities pursuant to Article 117 from the date of application of the delegated acts referred to in Article 43(11).

Article 144

Amendment to Regulation (EU) No 1093/2010

In Article 1(2) of Regulation (EU) No 1093/2010, the first subparagraph is replaced by the following:

'The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC⁴⁹, Directive 2009/110/EC, Regulation (EU) No 575/2013⁵⁰, Directive 2013/36/EU⁵¹, Directive 2014/49/EU⁵², Directive 2014/92/EU⁵³, Directive (EU) 2015/2366⁵⁴, Regulation (EU) 2023/1114⁵⁵ of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013⁵⁶.

⁴⁹ Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

⁵⁰ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁵¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

⁵² Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

⁵³ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

⁵⁴ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

⁵⁵ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

⁵⁶ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).'

Article 145

Amendment to Regulation (EU) No 1095/2010

In Article 1(2) of Regulation (EU) No 1095/2010, the first subparagraph is replaced by the following:

'The Authority shall act within the powers conferred by this Regulation and within the scope of Directives 97/9/EC, 98/26/EC, 2001/34/EC, 2002/47/EC, 2004/109/EC, 2009/65/EC, Directive 2011/61/EU of the European Parliament and of the Council⁵⁷, Regulation (EC) No 1060/2009 and Directive 2014/65/EU of the European Parliament and of the Council⁵⁸, Regulation (EU) 2017/1129 of the European Parliament and of the Council⁵⁹, Regulation (EU) 2023/1114 of the European Parliament and of the Council⁶⁰ and to the extent that those acts apply to firms providing investment services or to collective investment undertakings marketing their units or shares, issuers or offerors of crypto-assets, persons seeking admission to trading or crypto-asset service providers and the competent authorities that supervise them, within the relevant parts of, Directives 2002/87/EC and 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority.

⁵⁷ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁵⁸ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

⁵⁹ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

⁶⁰ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).'

Article 146

Amendment to Directive 2013/36/EU

In Annex I to Directive 2013/36/EU, point 15 is replaced by the following:

'15. Issuing electronic money including electronic-money tokens as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114 of the European Parliament and of the Council⁶¹.

16. Issuance of asset-referenced tokens as defined in Article 3(1), point (6), of Regulation (EU) 2023/1114.

17. Crypto-asset services as defined in Article 3(1), point (16), of Regulation (EU) 2023/1114.

⁶¹ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).'

Article 147

Amendment to Directive (EU) 2019/1937

In Part I.B of the Annex to Directive (EU) 2019/1937, the following point is added:

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

Article 148

Transposition of amendments to Directives 2013/36/EU and (EU) 2019/1937

1. Member States shall adopt and publish, by 30 December 2024, the laws, regulations and administrative provisions necessary to comply with Articles 146 and 147.
2. Member States shall communicate to the Commission, EBA and ESMA the text of the main measures of national law that they adopt in the field covered by Article 116.

Article 149

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 30 December 2024.
3. By way of derogation from paragraph 2, Titles III and IV shall apply from 30 June 2024.
4. By way of derogation from paragraphs 2 and 3 of this Article, Articles 2(5), 3(2), 6(11) and (12), Article 14(1), second subparagraph, Articles 17(8), 18(6) and (7), 19(10) and (11), 21(3), 22(6) and (7), 31(5), 32(5), 34(13), 35(6), 36(4), 38(5), 42(4), 43(11), 45(7) and (8), 46(6), 47(5), 51(10) and (15), 60(13) and (14), 61(3), 62(5) and (6), 63(11), 66(6), 68(10), 71(5), 72(5), 76(16), 81(15), 82(2), 84(4), 88(4), 92(2) and (3), 95(10) and (11), 96(3), 97(1), 103(8), 104(8), 105(7), 107(3) and (4), 109(8) and 119(8), 134(10), 137(3) and Article 139 shall apply from 29 June 2023.

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

ANNEX I**DISCLOSURE ITEMS FOR THE CRYPTO-ASSET WHITE PAPER FOR CRYPTO-ASSETS
OTHER THAN ASSET-REFERENCED TOKENS OR E-MONEY TOKENS***Part A: Information about the offeror or the person seeking admission to trading*

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier or another identifier required pursuant to applicable national law;
6. A contact telephone number and an email address of the offeror or the person seeking admission to trading, and the period of days within which an investor contacting the offeror or the person seeking admission to trading via that telephone number or email address will receive an answer;
7. Where applicable, the name of the parent company;
8. Identity, business addresses and functions of persons that are members of the management body of the offeror or person seeking admission to trading;
9. Business or professional activity of the offeror or person seeking admission to trading and, where applicable, of its parent company;
10. The financial condition of the offeror or person seeking admission to trading over the past three years or where the offeror or person seeking admission to trading has not been established for the past three years, its financial condition since the date of its registration.

The financial condition shall be assessed based on a fair review of the development and performance of the business of the offeror or person seeking admission to trading and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the business of the offeror or person seeking admission to trading and of its position, consistent with the size and complexity of the business.

Part B: Information about the issuer, if different from the offeror or person seeking admission to trading

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier or another identifier required pursuant to applicable national law;

6. Where applicable, the name of the parent company;
7. Identity, business addresses and functions of persons that are members of the management body of the issuer;
8. Business or professional activity of the issuer and, where applicable, of its parent company.

Part C: Information about the operator of the trading platform in cases where it draws up the crypto-asset white paper

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier or another identifier required pursuant to applicable national law;
6. Where applicable, the name of the parent company;
7. The reason why that operator drew up the crypto-asset white paper;
8. Identity, business addresses and functions of persons that are members of the management body of the operator;
9. Business or professional activity of the operator and, where applicable, of its parent company.

Part D: Information about the crypto-asset project

1. Name of the crypto-asset project and of the crypto-assets, if different from the name of the offeror or person seeking admission to trading, and abbreviation or ticker handler;
2. A brief description of the crypto-asset project;
3. Details of all natural or legal persons (including business addresses or domicile of the company) involved in the implementation of the crypto-asset project, such as advisors, development team and crypto-asset service providers;
4. Where the crypto-asset project concerns utility tokens, key features of the goods or services to be developed;
5. Information about the crypto-asset project, especially past and future milestones of the project and, where applicable, resources already allocated to the project;
6. Where applicable, planned use of any funds or other crypto-assets collected.

Part E: Information about the offer to the public of crypto-assets or their admission to trading

1. Indication as to whether the crypto-asset white paper concerns an offer to the public of crypto-assets or their admission to trading;
2. The reasons for the offer to the public or for seeking admission to trading;

3. Where applicable, the amount that the offer to the public intends to raise in funds or in any other crypto-asset, including, where applicable, any minimum and maximum target subscription goals set for the offer to the public of crypto-assets, and whether oversubscriptions are accepted and how they are allocated;
4. The issue price of the crypto-asset being offered to the public (in an official currency or any other crypto-assets), any applicable subscription fee or the method in accordance with which the offer price will be determined;
5. Where applicable, the total number of crypto-assets to be offered to the public or admitted to trading;
6. Indication of the prospective holders targeted by the offer to the public of crypto-assets or admission of such crypto-assets to trading, including any restriction as regards the type of holders for such crypto-assets;
7. Specific notice that purchasers participating in the offer to the public of crypto-assets will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, if they exercise the right to withdrawal foreseen in Article 13 or if the offer is cancelled and detailed description of the refund mechanism, including the expected timeline of when such refunds will be completed;
8. Information about the various phases of the offer to the public of crypto-assets, including information on discounted purchase price for early purchasers of crypto-assets (pre-public sales); in the case of discounted purchase prices for some purchasers, an explanation why purchase prices may be different, and a description of the impact on the other investors;
9. For time-limited offers, the subscription period during which the offer to the public is open;
10. The arrangements to safeguard funds or other crypto-assets as referred to in Article 10 during the time-limited offer to the public or during the withdrawal period;
11. Methods of payment to purchase the crypto-assets offered and methods of transfer of the value to the purchasers when they are entitled to be reimbursed;
12. In the case of offers to the public, information on the right of withdrawal as referred to in Article 13;
13. Information on the manner and time schedule of transferring the purchased crypto-assets to the holders;
14. Information about technical requirements that the purchaser is required to fulfil to hold the crypto-assets;
15. Where applicable, the name of the crypto-asset service provider in charge of the placing of crypto-assets and the form of such placement (with or without a firm commitment basis);
16. Where applicable, the name of the trading platform for crypto-assets where admission to trading is sought, and information about how investors can access such trading platforms and the costs involved;
17. Expenses related to the offer to the public of crypto-assets;
18. Potential conflicts of interest of the persons involved in the offer to the public or admission to trading, arising in relation to the offer or admission to trading;
19. The law applicable to the offer to the public of crypto-assets, as well as the competent court.

Part F: Information about the crypto-assets

1. The type of crypto-asset that will be offered to the public or for which admission to trading is sought;

2. A description of the characteristics, including the data necessary for classification of the crypto-asset white paper in the register referred to in Article 109, as specified in accordance with paragraph 8 of that Article, and functionality of the crypto-assets being offered or admitted to trading, including information about when the functionalities are planned to apply.

Part G: Information on the rights and obligations attached to the crypto-assets

1. A description of the rights and obligations, if any, of the purchaser, and the procedure and conditions for the exercise of those rights;
2. A description of the conditions under which the rights and obligations may be modified;
3. Where applicable, information on the future offers to the public of crypto-assets by the issuer and the number of crypto-assets retained by the issuer itself;
4. Where the offer to the public of crypto-assets or their admission to trading concerns utility tokens, information about the quality and quantity of goods or services to which the utility tokens give access;
5. Where the offers to the public of crypto-assets or their admission to trading concerns utility tokens, information on how utility tokens can be redeemed for goods or services to which they relate;
6. Where an admission to trading is not sought, information on how and where the crypto-assets can be purchased or sold after the offer to the public;
7. Restrictions on the transferability of the crypto-assets that are being offered or admitted to trading;
8. Where the crypto-assets have protocols for the increase or decrease of their supply in response to changes in demand, a description of the functioning of such protocols;
9. Where applicable, a description of protection schemes protecting the value of the crypto-assets and of compensation schemes;
10. The law applicable to the crypto-assets, as well as the competent court.

Part H: Information on the underlying technology

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used;
2. The consensus mechanism, where applicable;
3. Incentive mechanisms to secure transactions and any fees applicable;
4. Where the crypto-assets are issued, transferred and stored using distributed ledger technology that is operated by the issuer, the offeror or a third-party acting on their behalf, a detailed description of the functioning of such distributed ledger technology;
5. Information on the audit outcome of the technology used, if such an audit was conducted.

Part I: Information on the risks

1. A description of the risks associated with the offer to the public of crypto-assets or their admission to trading;

2. A description of the risks associated with the issuer, if different from the offeror, or person seeking admission to trading;
3. A description of the risks associated with the crypto-assets;
4. A description of the risks associated with project implementation;
5. A description of the risks associated with the technology used as well as mitigation measures, if any.

ANNEX II

DISCLOSURE ITEMS FOR THE CRYPTO-ASSET WHITE PAPER FOR AN ASSET-REFERENCED TOKEN

Part A: Information about the issuer of the asset-referenced token

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier or another identifier required pursuant to applicable national law;
6. Where applicable, the identity of the parent company;
7. Identity, business addresses and functions of persons that are members of the management body of the issuer;
8. Business or professional activity of the issuer and, where applicable, of its parent company;
9. The financial condition of the issuer over the past three years or, where the issuer has not been established for the past three years, its financial condition since the date of its registration.

The financial condition shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the issuer's business and of its position, consistent with the size and complexity of the business.

10. A detailed description of the issuer's governance arrangements;
11. Except for issuers of asset-referenced tokens that are exempted from authorisation in accordance with Article 17, details about the authorisation as an issuer of an asset-referenced token and name of the competent authority which granted such authorisation.

For credit institutions, the name of the competent authority of the home Member State.

12. Where the issuer of the asset-referenced token also issues other crypto-assets, or also has activities related to other crypto-assets, that should be clearly stated; the issuer should also state whether there is any connection between the issuer and the entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to the project participants.

Part B: Information about the asset-referenced token

1. Name and abbreviation or ticker handler of the asset-referenced token;

2. A description of the characteristics of the asset-referenced token, including the data necessary for classification of the crypto-asset white paper in the register referred to in Article 109, as specified in accordance with paragraph 8 of that Article;
3. Details of all natural or legal persons (including business addresses or domicile of the company) involved in the operationalisation of the asset-referenced token, such as advisors, development team and crypto-asset service providers;
4. A description of the role, responsibilities and accountability of any third-party entities referred to in Article 34(5), first subparagraph, point (h);
5. Information about the plans for the asset-referenced tokens, including the description of the past and future milestones and, where applicable, resources already allocated.

Part C: Information about the offer to the public of the asset-referenced token or its admission to trading

1. Indication as to whether the crypto-asset white paper concerns an offer to the public of the asset-referenced token or its admission to trading;
2. Where applicable, the amount that the offer to the public of the asset-referenced token intends to raise in funds or in any other crypto-asset, including, where applicable, any minimum and maximum target subscription goals set for the offer to the public of the asset-referenced token, and whether oversubscriptions are accepted and how they are allocated;
3. Where applicable, the total number of units of the asset-referenced token to be offered or admitted to trading;
4. Indication of the prospective holders targeted by the offer to the public of the asset-referenced token or admission of such asset-referenced token to trading, including any restriction as regards the type of holders for such asset-referenced token;
5. A specific notice that purchasers participating in the offer to the public of the asset-referenced token will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, including the expected timeline of when such refunds will be completed; the consequences of exceeding a maximum target subscription goal should be made explicit;
6. Information about the various phases of the offer to the public of the asset-referenced token, including information on discounted purchase price for early purchasers of the asset-referenced token (pre-public sales) and, in the case of discounted purchase price for some purchasers, an explanation as to why the purchase prices may be different, and a description of the impact on the other investors;
7. For time-limited offers, the subscription period during which the offer to the public is open;
8. Methods of payment to purchase and to redeem the asset-referenced token offered;
9. Information on the method and time schedule of transferring the purchased asset-referenced token to the holders;
10. Information about technical requirements that the purchaser is required to fulfil to hold the asset-referenced token;
11. Where applicable, the name of the crypto-asset service provider in charge of the placing of asset-referenced tokens and the form of such placement (with or without a firm commitment basis);

12. Where applicable, the name of the trading platform for crypto-assets where admission to trading is sought, and information about how investors can access such trading platforms and the costs involved;
13. Expenses related to the offer to the public of the asset-referenced token;
14. Potential conflicts of interest of the persons involved in the offer to the public or admission to trading, arising in relation to the offer or admission to trading;
15. The law applicable to the offer to the public of the asset-referenced token, as well as the competent court.

Part D: Information on the rights and obligations attached to the asset-referenced token

1. A description of the characteristics and functionality of the asset-referenced token being offered or admitted to trading, including information about when the functionalities are planned to apply;
2. A description of the rights and obligations, if any, of the purchaser, and the procedure and conditions for the exercise of those rights;
3. A description of the conditions under which the rights and obligations may be modified;
4. Where applicable, information on the future offers to the public of the asset-referenced token by the issuer and the number of units of the asset-referenced token retained by the issuer itself;
5. Where an admission to trading is not sought, information on how and where the asset-referenced token can be purchased or sold after the offer to the public;
6. Any restrictions on the transferability of the asset-referenced token that is being offered or admitted to trading;
7. Where the asset-referenced token has protocols for the increase or decrease of its supply in response to changes in demand, a description of the functioning of such protocols;
8. Where applicable, a description of protection schemes protecting the value of the asset-referenced token and compensation schemes;
9. Information on the nature and enforceability of rights, including permanent rights of redemption and any claims that holders and any legal or natural person as referred to in Article 39(2), may have against the issuer, including information on how such rights will be treated in the case of insolvency procedures, information on whether different rights are allocated to different holders and the non-discriminatory reasons for such different treatment;
10. A detailed description of the claim that the asset-referenced token represents for holders, including:
 - (a) the description of each referenced asset and specified proportions of each of those assets;
 - (b) the relation between the value of the referenced assets and the amount of the claim and the reserve of assets; and
 - (c) a description how a fair and transparent valuation of components of the claim is undertaken, which identifies, where relevant, independent parties;
11. Where applicable, information on the arrangements put in place by the issuer to ensure the liquidity of the asset-referenced token, including the name of the entities in charge of ensuring such liquidity;

12. The contact details for submitting complaints and description of the complaints-handling procedures and any dispute resolution mechanism or redress procedure established by the issuer of the asset-referenced token;
13. A description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency;
14. A description of the rights in the context of the implementation of the recovery plan;
15. A description of the rights in the context of the implementation of the redemption plan;
16. Detailed information on how the asset-referenced token is redeemed, including whether the holder will be able to choose the form of redemption, the form of transference or the official currency of redemption;
17. The law applicable to the asset-referenced token, as well as the competent court.

Part E: Information on the underlying technology

1. Information on the technology used, including distributed ledger technology, as well as protocols and technical standards used, allowing for the holding, storing and transfer of asset-referenced tokens;
2. The consensus mechanism, where applicable;
3. Incentive mechanisms to secure transactions and any fees applicable;
4. Where the asset-referenced tokens are issued, transferred and stored using distributed ledger technology that is operated by the issuer or a third-party acting on the issuer's behalf, a detailed description of the functioning of such distributed ledger technology;
5. Information on the audit outcome of the technology used, if such an audit was conducted.

Part F: Information on the risks

1. The risks related to the reserve of assets, when the issuer is not able to fulfil its obligations;
2. A description of the risks associated with the issuer of the asset-referenced token;
3. A description of the risks associated with the offer to the public of the asset-referenced token or its admission to trading;
4. A description of the risks associated with the asset-referenced token, in particular with regard to the assets referenced;
5. A description of the risks associated with the operationalisation of the asset-referenced token project;
6. A description of the risks associated with the technology used as well as mitigation measures, if any.

Part G: Information on the reserve of assets

1. A detailed description of the mechanism aimed at aligning the value of the reserve of assets with the claim associated with the asset-referenced token, including legal and technical aspects;
2. A detailed description of the reserve of assets and their composition;
3. A description of the mechanisms through which asset-referenced tokens are issued and redeemed;

4. Information on whether a part of the reserve assets are invested and, where applicable, a description of the investment policy for those reserve assets;
5. A description of the custody arrangements for the reserve assets, including their segregation, and the name of crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients, credit institutions or investment firms appointed as custodians of the reserve assets.

ANNEX III**DISCLOSURE ITEMS FOR THE CRYPTO-ASSET WHITE PAPER FOR AN E-MONEY
TOKEN***Part A: Information about the issuer of the e-money token*

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier or another identifier required pursuant to applicable national law;
6. A contact telephone number and an email address of the issuer, and the period of days within which an investor contacting the issuer via that telephone number or email address will receive an answer;
7. Where applicable, the identity of the parent company;
8. Identity, business address and functions of persons that are members of the management body of the issuer;
9. Business or professional activity of the issuer and, where applicable, of its parent company;
10. Potential conflicts of interest;
11. Where the issuer of the e-money token also issues other crypto-assets, or also has other activities related to crypto-assets, that should be clearly stated; the issuer should also state whether there is any connection between the issuer and the entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to project participants;
12. The issuer's financial condition over the past three years or, where the issuer has not been established for the past three years, the issuer's financial condition record since the date of its registration.

The financial condition shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the issuer's business and of its position, consistent with the size and complexity of the business;

13. Except for issuers of e-money tokens who are exempted from authorisation in accordance with Article 48(4) and (5), details about the authorisation as an issuer of an e-money token and the name of the competent authority which granted authorisation.

Part B: Information about the e-money token

1. Name and abbreviation;

2. A description of the characteristics of the e-money token, including the data necessary for classification of the crypto-asset white paper in the register referred to in Article 109, as specified in accordance with paragraph 8 of that Article;

3. Details of all natural or legal persons (including business addresses and/or domicile of the company) involved in the design and development, such as advisors, development team and crypto-asset service providers.

Part C: Information about the offer to the public of the e-money token or its admission to trading

1. Indication as to whether the crypto-asset white paper concerns an offer to the public of the e-money token or its admission to trading;

2. Where applicable, the total number of units of the e-money token to be offered to the public or admitted to trading;

3. Where applicable, name of the trading platforms for crypto-assets where the admission to trading of the e-money token is sought;

4. The law applicable to the offer to the public of the e-money token, as well as the competent court.

Part D: Information on the rights and obligations attached to e-money tokens

1. A detailed description of the rights and obligations, if any, that the holder of the e-money token has, including the right of redemption at par value as well as the procedure and conditions for the exercise of those rights;

2. A description of the conditions under which the rights and obligations may be modified;

3. A description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency;

4. A description of rights in the context of the implementation of the recovery plan;

5. A description of rights in the context of the implementation of the redemption plan;

6. The contact details for submitting complaints and description of the complaints-handling procedures and any dispute resolution mechanism or redress procedure established by the issuer of the e-money token;

7. Where applicable, a description of protection schemes protecting the value of the crypto-asset and of compensation schemes;

8. The law applicable to the e-money token as well as the competent court.

Part E: Information on the underlying technology

1. Information on the technology used, including distributed ledger technology, as well as the protocols and technical standards used, allowing for the holding, storing and transfer of e-money tokens;

2. Information about the technical requirements that the purchaser has to fulfil to gain control over the e-money token;

3. The consensus mechanism, where applicable;

4. Incentive mechanisms to secure transactions and any fees applicable;

5. Where the e-money token is issued, transferred and stored using distributed ledger technology that is operated by the issuer or a third-party acting on its behalf, a detailed description of the functioning of such distributed ledger technology;
6. Information on the audit outcome of the technology used, if such an audit was conducted.

Part F: Information on the risks

1. Description of the risks associated with the issuer of the e-money token;
2. Description of the risks associated with the e-money token;
3. Description of the risks associated with the technology used as well as mitigation measures, if any.

ANNEX IV

MINIMUM CAPITAL REQUIREMENTS FOR CRYPTO-ASSET SERVICE PROVIDERS

Crypto-asset service providers	Type of crypto-asset services	Minimum capital requirements under Article 67(1), point (a)
Class 1	Crypto-asset service provider authorised for the following crypto-asset services: — execution of orders on behalf of clients; — placing of crypto-assets; — providing transfer services for crypto-assets on behalf of clients; — reception and transmission of orders for crypto-assets on behalf of clients; — providing advice on crypto-assets; and/or — providing portfolio management on crypto-assets.	EUR 50 000
Class 2	Crypto-asset service provider authorised for any crypto-asset services under class 1 and: — providing custody and administration of crypto-assets on behalf of clients; — exchange of crypto-assets for funds; and/or — exchange of crypto-assets for other crypto-assets.	EUR 125 000
Class 3	Crypto-asset service provider authorised for any crypto-asset services under class 2 and: — operation of a trading platform for crypto-assets.	EUR 150 000

ANNEX V**LIST OF INFRINGEMENTS REFERRED TO IN TITLES III AND VI FOR ISSUERS OF
SIGNIFICANT ASSET-REFERENCED TOKENS**

1. The issuer infringes Article 22(1) by not reporting, for each significant asset-referenced token with an issue value that is higher than EUR 100 000 000 , on a quarterly basis to EBA the information referred to in the first subparagraph, points (a) to (d), of that paragraph.
2. The issuer infringes Article 23(1) by not stopping issuing a significant asset-referenced token upon reaching the thresholds provided for in that paragraph or by not submitting a plan to EBA within 40 working days of reaching those thresholds to ensure that the estimated quarterly average number and average aggregate value of the transactions per day are kept below those thresholds.
3. The issuer infringes Article 23(4) by not complying with the modifications of the plan referred to in paragraph 1, point (b), of that Article as required by EBA.
4. The issuer infringes Article 25 by not notifying EBA of any intended change of its business model likely to have a significant influence on the purchase decision of any holders or prospective holders of significant asset-referenced tokens, or by not describing such a change in a crypto-asset white paper.
5. The issuer infringes Article 25 by not complying with a measure requested by EBA in accordance with Article 25(4).
6. The issuer infringes Article 27(1) by not acting honestly, fairly and professionally.
7. The issuer infringes Article 27(1) by not communicating with holders and prospective holders of the significant asset-referenced token in a fair, clear and not misleading manner.
8. The issuer infringes Article 27(2) by not acting in the best interests of the holders of the significant asset-referenced token, or by giving preferential treatment to specific holders which is not disclosed in the issuer's crypto-asset white paper or, where applicable, the marketing communications.
9. The issuer infringes Article 28 by not publishing on its website the approved crypto-asset white paper as referred to in Article 21(1) and, where applicable, the modified crypto-asset white paper as referred to in Article 25.
10. The issuer infringes Article 28 by not making the crypto-asset white paper publicly accessible by the starting date of the offer to the public of the significant asset-referenced token or the admission to trading of that token.
11. The issuer infringes Article 28 by not ensuring that the crypto-asset white paper, and, where applicable, the modified crypto-asset white paper, remains available on its website for as long as the significant asset-referenced token is held by the public.
12. The issuer infringes Article 29(1) and (2) by publishing marketing communications relating to an offer to the public of a significant asset-referenced token, or to the admission to trading of such significant asset-referenced token, which do not comply with the requirements set out in paragraph 1, points (a) to (d), and paragraph 2 of that Article.
13. The issuer infringes Article 29(3) by not publishing marketing communications and any modifications thereto on its website.

14. The issuer infringes Article 29(5) by not notifying marketing communications to EBA upon request.
15. The issuer infringes Article 29(6) by disseminating marketing communications prior to the publication of the crypto-asset white paper.
16. The issuer infringes Article 30(1) by not disclosing in a clear, accurate and transparent manner in a publicly and easily accessible place on its website the amount of the significant asset-referenced token in circulation and the value and composition of the reserve of assets referred to in Article 36, or by not updating the required information at least monthly.
17. The issuer infringes Article 30(2) by not publishing as soon as possible in a publicly and easily accessible place on its website a brief, clear, accurate and transparent summary of the audit report, as well as the full and unredacted audit report, in relation to the reserve of assets referred to in Article 36.
18. The issuer infringes Article 30(3) by not disclosing in a publicly and easily accessible place on its website in a clear, accurate and transparent manner as soon as possible any event that has or is likely to have a significant effect on the value of the significant asset-referenced token or on the reserve of assets referred to in Article 36.
19. The issuer infringes Article 31(1) by not establishing and maintaining effective and transparent procedures for the prompt, fair and consistent handling of complaints received from holders of the significant asset-referenced token and other interested parties, including consumer associations that represent holders of the significant asset-referenced token, and by not publishing descriptions of those procedures, or, where the significant asset-referenced token is distributed, totally or partially, by third-party entities, by not establishing procedures to also facilitate the handling of complaints between holders and third-party entities as referred to in Article 34(5), first subparagraph, point (h).
20. The issuer infringes Article 31(2) by not enabling the holders of the significant asset-referenced token to file complaints free of charge.
21. The issuer infringes Article 31(3) by not developing and making available to the holders of the significant asset-referenced token a template for filing complaints and by not keeping a record of all complaints received and any measures taken in response to those complaints.
22. The issuer infringes Article 31(4), by not investigating all complaints in a timely and fair manner or by not communicating the outcome of such investigations to the holders of its significant asset-referenced token within a reasonable period.
23. The issuer infringes Article 32(1) by not implementing and maintaining effective policies and procedures to identify, prevent, manage and disclose conflicts of interest between the issuer itself and its shareholders or members, itself and any shareholder or member, whether direct or indirect, that has a qualifying holding in it, itself and the members of its management body, itself and its employees, itself and the holders of the significant asset-referenced token or itself and any third party providing one of the functions as referred in Article 34(5), first subparagraph, point (h).
24. The issuer infringes Article 32(2) by not taking all appropriate steps to identify, prevent, manage and disclose conflicts of interest arising from the management and investment of the reserve of assets referred to in Article 36.
25. The issuer infringes Article 32(3) and (4), by not disclosing, in a prominent place on its website, to the holders of the significant asset-referenced token the general nature and sources of conflicts of interest and the steps taken to mitigate those risks, or by not being sufficiently precise in the disclosure to enable the prospective holders of the significant asset-referenced token to take an informed purchasing decision about such token.

26. The issuer infringes Article 33 by not immediately notifying EBA of any changes to its management body or by not providing EBA with all necessary information to assess compliance with Article 34(2).

27. The issuer infringes Article 34(1) by not having robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures.

28. The issuer infringes Article 34(2) by having members of its management body who are not of sufficiently good repute or do not possess the appropriate knowledge, skills and experience, both individually and collectively, to perform their duties or do not demonstrate that they are capable of committing sufficient time to effectively perform their duties.

29. The issuer infringes Article 34(3) by not having its management body assess or periodically review the effectiveness of the policy arrangements and procedures put in place to comply with Chapters 2, 3, 5 and 6 of Title III or by not taking appropriate measures to address any deficiencies in that respect.

30. The issuer infringes Article 34(4) by having shareholders or members, whether direct or indirect, with qualifying holdings who are not of sufficiently good repute.

31. The issuer infringes Article 34(5) by not adopting policies and procedures that are sufficiently effective to ensure compliance with this Regulation, in particular by not establishing, maintaining and implementing any of the policies and procedures referred to in the first subparagraph, points (a) to (k), of that paragraph.

32. The issuer infringes Article 34(5) by not entering into contractual arrangements with third-party entities as referred to in the first subparagraph, point (h), of that paragraph that set out the roles, responsibilities, rights and obligations both of the issuer and of the third-party entity concerned, or by not providing for an unambiguous choice of applicable law.

33. The issuer infringes Article 34(6), unless it has initiated a plan as referred to in Article 47, by not employing appropriate and proportionate systems, resources or procedures to ensure the continued and regular performance of its services and activities, and by not maintaining all of its systems and security access protocols in conformity with the appropriate Union standards.

34. The issuer infringes Article 34(7) by not submitting a plan for discontinuation of providing services and activities to EBA, for approval of such discontinuation.

35. The issuer infringes Article 34(8) by not identifying sources of operational risks and by not minimising those risks through the development of appropriate systems, controls and procedures.

36. The issuer infringes Article 34(9) by not establishing a business continuity policy and plans to ensure, in the case of an interruption of its ICT systems and procedures, the preservation of essential data and functions and the maintenance of its activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its activities.

37. The issuer infringes Article 34(10) by not having in place internal control mechanisms and effective procedures for risk management, including effective control and safeguard arrangements for managing ICT systems as required by Regulation (EU) 2022/2554.

38. The issuer infringes Article 34(11) by not having in place systems and procedures that are adequate to safeguard the availability, authenticity, integrity and confidentiality of data as required by Regulation (EU) 2022/2554 and in line with Regulation (EU) 2016/679.

39. The issuer infringes Article 34(12) by not ensuring that the issuer is regularly audited by independent auditors.
40. The issuer infringes Article 35(1) by not having, at all times, own funds equal to amounts of at least the highest of that set in point (a) or (c) of that paragraph or in Article 45(5).
41. The issuer infringes Article 35(2) of this Regulation where its own funds do not consist of the Common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Article 46(4) and Article 48 of that Regulation.
42. The issuer infringes Article 35(3) by not complying with the requirement of EBA to hold a higher amount of own funds, following the assessment made in accordance with points (a) to (g) of that paragraph.
43. The issuer infringes Article 35(5) by not conducting, on a regular basis, stress testing that takes into account severe but plausible financial stress scenarios, such as interest rate shocks and non-financial stress scenarios such as operational risk.
44. The issuer infringes Article 35(5) by not complying with the requirement of EBA to hold a higher amount of own funds based on the outcome of the stress testing.
45. The issuer infringes Article 36(1) by not constituting and, at all times, maintaining a reserve of assets.
46. The issuer infringes Article 36(1) by not ensuring that the reserve of assets is composed and managed in such a way that the risks associated to the assets referenced by the significant asset-referenced token are covered.
47. The issuer infringes Article 36(1) by not ensuring that the reserve of assets is composed and managed in such a way that the liquidity risks associated to the permanent rights of redemption of the holders are addressed.
48. The issuer infringes Article 36(3) by not ensuring that the reserve of assets is operationally segregated from the issuer's estate, and from the reserve of assets of other asset-referenced tokens.
49. The issuer infringes Article 36(6) where its management body does not ensure effective and prudent management of the reserve of assets.
50. The issuer infringes Article 36(6) by not ensuring that the issuance and redemption of the significant asset-referenced token is always matched by a corresponding increase or decrease in the reserve of assets.
51. The issuer infringes Article 36(7) by not determining the aggregate value of the reserve of assets using market prices, and by not having its aggregate value always at least equal to the aggregate value of the claims against the issuer from holders of the significant asset-referenced token in circulation.
52. The issuer infringes Article 36(8), by not having a clear and detailed policy describing the stabilisation mechanism of the significant asset-referenced token that meets the conditions set out in points (a) to (g) of that paragraph.
53. The issuer infringes Article 36(9) by not mandating an independent audit of the reserve of assets every six months, as of the date of its authorisation or as of the date of approval of the crypto-asset white paper pursuant to Article 17.
54. The issuer infringes Article 36(10) by not notifying to EBA the result of the audit in accordance with that paragraph or by not publishing the result of the audit within two weeks of the date of notification to EBA.

55. The issuer infringes Article 37(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in the first subparagraph, points (a) to (e), of that paragraph are met.

56. The issuer infringes Article 37(2) by not having, when issuing two or more significant asset-referenced tokens, a custody policy in place for each pool of reserve of assets.

57. The issuer infringes Article 37(3) by not ensuring that the reserve assets are held in custody by a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients, a credit institution or an investment firm by no later than five working days after the date of issuance of the significant asset-referenced token.

58. The issuer infringes Article 37(4) by not exercising all due skill, care and diligence in the selection, appointment and review of crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets, or by not ensuring that the custodian is a legal person different from the issuer.

59. The issuer infringes Article 37(4) by not ensuring that the crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.

60. The issuer infringes Article 37(4) by not ensuring in the contractual arrangements with the custodians that the reserve assets held in custody are protected against claims of the custodians' creditors.

61. The issuer infringes Article 37(5) by not setting out in the custody policies and procedures the selection criteria for the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets or by not setting out the procedure for reviewing such appointment.

62. The issuer infringes Article 37(5) by not reviewing the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets on a regular basis, by not evaluating its exposures to such custodians or by not monitoring the financial conditions of such custodians on an ongoing basis.

63. The issuer infringes Article 37(6) by not ensuring that custody of the reserve assets is carried out in accordance with the first subparagraph, points (a) to (d), of that paragraph.

64. The issuer infringes Article 37(7) by not having the appointment of a crypto-asset service provider, credit institution or investment firm as custodian of the reserve assets evidenced by a contractual arrangement, or by not regulating, by means of such a contractual arrangement, the flow of information necessary to enable the issuer of the significant asset-referenced token, the crypto-asset service provider, the credit institution and the investment firm to perform their functions as custodians.

65. The issuer infringes Article 38(1) by investing the reserve of assets in any products that are not highly liquid financial instruments with minimal market risk, credit risk and concentration risks or where such investments cannot be liquidated rapidly with minimal adverse price effect.

66. The issuer infringes Article 38(3) by not holding in custody in accordance with Article 37 the financial instruments in which the reserve of assets is invested.

67. The issuer infringes Article 38(4) by not bearing all profits and losses and any counterparty or operational risks that result from the investment of the reserve of assets.

68. The issuer infringes Article 39(1), by not establishing, maintaining and implementing clear and detailed policies and procedures in respect of permanent rights of redemption of holders of the significant asset-referenced token.
69. The issuer infringes Article 39(1) and (2) by not ensuring that holders of the significant asset-referenced token have permanent rights of redemption in accordance with those paragraphs, and by not establishing a policy on such permanent rights of redemption that meets the conditions listed in Article 39(2), first subparagraph, points (a) to (e).
70. The issuer infringes Article 39(3) by applying fees in the event of the redemption of the significant asset-referenced token.
71. The issuer infringes Article 40 by granting interest in relation to the significant asset-referenced token.
72. The issuer infringes Article 45(1) by not adopting, implementing and maintaining a remuneration policy that promotes the sound and effective risk management of issuers of significant asset-referenced tokens and that does not create incentives to relax risk standards.
73. The issuer infringes Article 45(2) by not ensuring that its significant asset-referenced token can be held in custody by different crypto-asset service providers authorised for providing custody and administration of crypto-assets on behalf of clients, on a fair, reasonable and non-discriminatory basis.
74. The issuer infringes Article 45(3) by not assessing or monitoring the liquidity needs to meet requests for redemption of the significant asset-referenced token by its holders.
75. The issuer infringes Article 45(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not ensuring, with those policy and procedures, that the reserve assets have a resilient liquidity profile that enables the issuer of the significant asset-referenced token to continue operating normally, including under scenarios of liquidity stress.
76. The issuer infringes Article 45(4) by not conducting, on a regular basis, liquidity stress testing or by not strengthening the liquidity requirements where requested by EBA based on the outcome of such tests.
77. The issuer infringes Article 46(1) by not drawing up and maintaining a recovery plan providing for measures to be taken by the issuer of the significant asset-referenced token to restore compliance with the requirements applicable to the reserve of assets in cases where the issuer fails to comply with those requirements, including the preservation of its services related to the significant asset-referenced token, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that pose a significant risk of disrupting operations.
78. The issuer infringes Article 46(1) by not drawing up and maintaining a recovery plan that includes appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options, as listed in the third subparagraph of that paragraph.
79. The issuer infringes Article 46(2) by not notifying the recovery plan to EBA and, where applicable, to its resolution and prudential supervisory authorities, within six months of the date of authorisation pursuant to Article 21 or of the date of approval of the crypto-asset white paper pursuant to Article 17.
80. The issuer infringes Article 46(2) by not regularly reviewing or updating the recovery plan.
81. The issuer infringes Article 47(1) by not drawing up and maintaining an operational plan to support the orderly redemption of each significant asset-referenced token.

82. The issuer infringes Article 47(2) by not having a redemption plan that demonstrates the ability of the issuer of the significant asset-referenced token to carry out the redemption of the outstanding significant asset-referenced token issued without causing undue economic harm to its holders or to the stability of the markets of the reserve assets.

83. The issuer infringes Article 47(2) by not having a redemption plan that includes contractual arrangements, procedures or systems, including the designation of a temporary administrator, to ensure the equitable treatment of all holders of the significant asset-referenced token and to ensure that holders of the significant asset-referenced token are paid in a timely manner with the proceeds from the sale of the remaining reserve assets.

84. The issuer infringes Article 47(2) by not having a redemption plan that ensures the continuity of any critical activities that are necessary for the orderly redemption and that are performed by the issuer or by any third-party entity.

85. The issuer infringes Article 47(3) by not notifying the redemption plan to EBA within six months of the date of authorisation pursuant to Article 21 or of the date of approval of the crypto-asset white paper pursuant to Article 17.

86. The issuer infringes Article 47(3) by not regularly reviewing or updating the redemption plan.

87. The issuer infringes Article 88(1), except where the conditions of Article 88(2) are met, by not informing the public as soon as possible of inside information as referred to in Article 87, that directly concerns that issuer, in a manner that enables fast access and complete, correct and timely assessment of the information by the public.

ANNEX VI

LIST OF INFRINGEMENTS OF PROVISIONS REFERRED TO IN TITLE IV IN CONJUNCTION WITH TITLE III FOR ISSUERS OF SIGNIFICANT E-MONEY TOKENS

1. The issuer infringes Article 22(1) by not reporting, for each significant e-money token denominated in a currency that is not an official currency of a Member State with an issue value that is higher than EUR 100 000 000, on a quarterly basis to EBA, the information referred to in the first subparagraph, points (a) to (d), of that paragraph.
2. The issuer infringes Article 23(1) by not stopping issuing a significant e-money token denominated in a currency that is not an official currency of a Member State upon reaching the thresholds provided for in that paragraph or by not submitting a plan to EBA within 40 working days of reaching those thresholds to ensure that the estimated quarterly average number and average aggregate value of the transactions per day are kept below those thresholds.
3. The issuer infringes Article 23(4) by not complying with the modifications of the plan referred to in paragraph 1, point (b), of that Article as required by EBA.
4. The issuer infringes Article 35(2) of this Regulation where its own funds do not consist of the Common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Article 46(4) and Article 48 of that Regulation.
5. The issuer infringes Article 35(3) by not complying with the requirement of EBA to hold a higher amount of own funds, following the assessment made in accordance with points (a) to (g) of that paragraph.
6. The issuer infringes Article 35(5) by not conducting, on a regular basis, stress testing that takes into account severe but plausible financial stress scenarios, such as interest rate shocks, and non-financial stress scenarios, such as operational risk.
7. The issuer infringes Article 35(5) by not complying with the requirement of EBA to hold a higher amount of own funds based on the outcome of the stress testing.
8. The issuer infringes Article 36(1) by not constituting and, at all times, maintaining a reserve of assets.
9. The issuer infringes Article 36(1) by not ensuring that the reserve of assets is composed and managed in such a way that the risks associated to the official currency referenced by the significant e-money token are covered.
10. The issuer infringes Article 36(1) by not ensuring that the reserve of assets is composed and managed in such a way that the liquidity risks associated to the permanent rights of redemption of the holders are addressed.
11. The issuer infringes Article 36(3) by not ensuring that the reserve of assets is operationally segregated from the issuer's estate, and from the reserve of assets of other e-money tokens.
12. The issuer infringes Article 36(6) where its management body does not ensure effective and prudent management of the reserve of assets.
13. The issuer infringes Article 36(6) by not ensuring that the issuance and redemption of the significant e-money token is always matched by a corresponding increase or decrease in the reserve of assets.

14. The issuer infringes Article 36(7) by not determining the aggregate value of the reserve of assets by using market prices, and by not having its aggregate value always at least equal to the aggregate value of the claims against the issuer from the holders of the significant e-money token in circulation.
15. The issuer infringes Article 36(8) by not having a clear and detailed policy describing the stabilisation mechanism of the significant e-money token that meets the conditions set out in points (a) to (g) of that paragraph.
16. The issuer infringes Article 36(9) by not mandating an independent audit of the reserve of assets every six months after the date of the offer to the public or admission to trading.
17. The issuer infringes Article 36(10) by not notifying to EBA the result of the audit in accordance with that paragraph or by not publishing the result of the audit within two weeks of the date of notification to EBA.
18. The issuer infringes Article 37(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in the first subparagraph, points (a) to (e), of that paragraph are met.
19. The issuer infringes Article 37(2) by not having, when issuing two or more significant e-money tokens, a custody policy in place for each pool of reserve of assets.
20. The issuer infringes Article 37(3) by not ensuring that the reserve assets are held in custody by a crypto-asset service provider providing custody and administration of crypto-assets on behalf of clients, a credit institution or an investment firm by no later than five working days after the date of issuance of the significant e-money token.
21. The issuer infringes Article 37(4) by not exercising all due skill, care and diligence in the selection, appointment and review of crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets or by not ensuring that the custodian is a legal person different from the issuer.
22. The issuer infringes Article 37(4) by not ensuring that the crypto-asset service providers, credit institutions and investment firms appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.
23. The issuer infringes Article 37(4) by not ensuring in the contractual arrangements with the custodians that the reserve assets held in custody are protected against claims of the custodians' creditors.
24. The issuer infringes Article 37(5) by not setting out in the custody policies and procedures the selection criteria for the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets or by not setting out the procedure for reviewing such appointment.
25. The issuer infringes Article 37(5) by not reviewing the appointment of crypto-asset service providers, credit institutions or investment firms as custodians of the reserve assets on a regular basis, and by not evaluating its exposures to such custodians, or by not monitoring the financial conditions of such custodians on an ongoing basis.
26. The issuer infringes Article 37(6) by not ensuring that the custody of the reserve assets is carried out in accordance with the first subparagraph, points (a) to (d), of that paragraph.
27. The issuer infringes Article 37(7) by not having the appointment of a crypto-asset service provider, credit institution or investment firm as custodian of the reserve assets evidenced by a contractual arrangement, or by not regulating, by means of such a contractual arrangement, the flow of information necessary to enable the

issuer of the significant e-money token, the crypto-asset service provider, the credit institutions and the investment firm to perform their functions as custodians.

28. The issuer infringes Article 38(1) by investing the reserve of assets in any products that are not highly liquid financial instruments with minimal market risk, credit risk and concentration risks or where such investments cannot be liquidated rapidly with minimal adverse price effect.

29. The issuer infringes Article 38(3) by not holding in custody in accordance with Article 37 the financial instruments in which the reserve of assets is invested.

30. The issuer infringes Article 38(4) by not bearing all profits and losses and any counterparty or operational risks that result from the investment of the reserve of assets.

31. The issuer infringes Article 45(1) by not adopting, implementing and maintaining a remuneration policy that promotes the sound and effective risk management of issuers of significant e-money tokens and that does not create incentives to relax risk standards.

32. The issuer infringes Article 45(2) by not ensuring that its significant e-money token can be held in custody by different crypto-asset service providers authorised for providing custody and administration of crypto-assets on behalf of clients on a fair, reasonable and non-discriminatory basis.

33. The issuer infringes Article 45(3) by not assessing or monitoring the liquidity needs to meet requests for redemption of the significant e-money token by its holders.

34. The issuer infringes Article 45(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not ensuring, with those policy and procedures, that the reserve assets have a resilient liquidity profile that enables the issuer of the significant e-money token to continue operating normally, including under liquidity stressed scenarios.

35. The issuer infringes Article 45(4) by not conducting, on a regular basis, liquidity stress testing or by not strengthening the liquidity requirements where requested by EBA based on the outcome of such tests.

36. The issuer infringes Article 45(5) by not complying, at all times, with the own funds requirement.

37. The issuer infringes Article 46(1) by not drawing up and maintaining a recovery plan providing for measures to be taken by the issuer of significant e-money tokens to restore compliance with the requirements applicable to the reserve of assets in cases where the issuer fails to comply with those requirements, including the preservation of its services related to the significant e-money token, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that pose a significant risk of disrupting operations.

38. The issuer infringes Article 46(1) by not drawing up and maintaining a recovery plan that includes appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options, as listed in the third subparagraph, points (a), (b) and (c), of that paragraph.

39. The issuer infringes Article 46(2) by not notifying the recovery plan to EBA and, where applicable, to its resolution and prudential supervisory authorities, within six months of the date of the offer to the public or admission to trading.

40. The issuer infringes Article 46(2) by not regularly reviewing or updating the recovery plan.

41. The issuer infringes Article 47(1) by not drawing up and maintaining an operational plan that supports the orderly redemption of each significant e-money token.

42. The issuer infringes Article 47(2) by not having a redemption plan that demonstrates the ability of the issuer of the significant e-money token to carry out the redemption of the outstanding significant e-money token issued without causing undue economic harm to its holders or to the stability of the markets of the reserve assets.

43. The issuer infringes Article 47(2) by not having a redemption plan that includes contractual arrangements, procedures or systems, including the designation of a temporary administrator, to ensure the equitable treatment of all holders of the significant e-money token and to ensure that holders of the significant e-money token are paid in a timely manner with the proceeds from the sale of the remaining reserve assets.

44. The issuer infringes Article 47(2) by not having a redemption plan that ensures the continuity of any critical activities that are necessary for the orderly redemption and that are performed by the issuer or by any third-party entities.

45. The issuer infringes Article 47(3) by not notifying the redemption plan to EBA within six months of the date of the offer to the public or admission to trading.

46. The issuer infringes Article 47(3) by not regularly reviewing or updating the redemption plan.

APPENDIX 1: Regulation (EU) 2023/1113
of the European Parliament and of the Council
of 31 May 2023
on information accompanying transfers of funds and certain crypto-assets
and amending Directive (EU) 2015/849

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank⁶²,

Having regard to the opinion of the European Economic and Social Committee⁶³,

Acting in accordance with the ordinary legislative procedure⁶⁴,

Whereas:

- (1) Regulation (EU) 2015/847 of the European Parliament and of the Council⁶⁵ has been substantially amended⁶⁶. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) Regulation (EU) 2015/847 was adopted to ensure that the Financial Action Task Force (FATF) requirements on wire transfer service providers, and in particular the obligation on payment service providers to accompany transfers of funds with information on the payer and the payee, were applied uniformly throughout the Union. The latest changes introduced in June 2019 in the FATF standards on new technologies, with the aim of regulating virtual assets and virtual asset service providers, have provided new and similar obligations for virtual asset service providers, with the purpose of facilitating the traceability of transfers of virtual assets. Further to those changes, virtual asset service providers are to accompany transfers of virtual assets with information on the originators and beneficiaries of those transfers. Virtual asset service providers are also required to obtain, hold and share that information with their counterpart on the other end of the virtual assets transfer and make it available on request to competent authorities.
- (3) Given that Regulation (EU) 2015/847 currently only applies to transfers of funds, that is to banknotes and coins, scriptural money, and electronic money as defined in Article 2, point 2, of Directive 2009/110/EC of

⁶² OJ C 68, 9.2.2022, p. 2.

⁶³ OJ C 152, 6.4.2022, p. 89.

⁶⁴ Position of the European Parliament of 20 April 2023 (not yet published in the Official Journal) and decision of the Council of 16 May 2023.

⁶⁵ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

⁶⁶ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

the European Parliament and of the Council⁶⁷, it is appropriate to extend the scope of Regulation (EU) 2015/847 in order to also cover transfers of virtual assets.

- (4) Flows of illicit money through transfers of funds and virtual assets can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the Union as well as international development. Money laundering, terrorist financing and organised crime remain significant problems which should be addressed at Union level. The soundness, integrity and stability of the system of transfers of funds and virtual assets, and confidence in the financial system as a whole, could be seriously jeopardised by the efforts of criminals and their associates to disguise the origin of criminal proceeds or to transfer funds or virtual assets for criminal activities or terrorist purposes.
- (5) In order to facilitate their criminal activities, money launderers and financiers of terrorism are likely to take advantage of the freedom of capital movements within the Union's integrated financial area unless certain coordinating measures are adopted at Union level. International cooperation within the framework of FATF and the global implementation of its recommendations aim to prevent money laundering and terrorist financing while transferring funds or virtual assets.
- (6) By reason of the scale of the action to be undertaken, the Union should ensure that the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by FATF on 16 February 2012 and then revised on 21 June 2019 (the 'revised FATF Recommendations'), and in particular FATF Recommendation 15 on new technologies, FATF Recommendation 16 on wire transfers and the revised interpretative notes on those recommendations, are applied uniformly throughout the Union and that, in particular, there is no discrimination or discrepancy between, on the one hand, national payments or transfers of virtual assets within a Member State and, on the other, cross-border payments or transfers of virtual assets between Member States. Uncoordinated action by Member States acting alone in the field of cross-border transfers of funds and virtual assets could have a significant impact on the smooth functioning of payment systems and virtual asset services at Union level and could therefore damage the internal market in the field of financial services.
- (7) In order to foster a coherent approach in the international context and to increase the effectiveness of the fight against money laundering and terrorist financing, further Union action should take account of developments at international level, in particular the revised FATF Recommendations.
- (8) Their global reach, the speed at which transactions can be carried out and the possible anonymity offered by their transfer make virtual assets particularly susceptible to criminal misuse, including in cross-border situations. In order to effectively address the risks posed by the misuse of virtual assets for money laundering and terrorist financing purposes, the Union should promote the application at global level of the standards implemented by this Regulation and the development of the international and cross-jurisdictional dimension of the regulatory and supervisory framework for transfers of virtual assets in relation to money laundering and terrorist financing.

⁶⁷ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

- (9) Directive (EU) 2015/849 of the European Parliament and of the Council⁶⁸, as a result of its amendment by Directive (EU) 2018/843 of the European Parliament and of the Council⁶⁹, introduced a definition of virtual currencies and recognised providers engaged in exchange services between virtual currencies and fiat currencies, as well as custodial wallet providers, among the entities subject to anti-money laundering and counter-terrorist financing requirements under Union law. Recent international developments, in particular within the framework of FATF, now imply the need to regulate additional categories of virtual asset service providers not yet covered and to broaden the current definition of virtual currency.
- (10) The definition of crypto-assets in Regulation (EU) 2023/1114 of the European Parliament and of the Council⁷⁰ corresponds to the definition of virtual assets set out in the revised FATF Recommendations, and the list of crypto-asset services and crypto-asset service providers covered in that Regulation also encompasses the virtual asset service providers identified as such by FATF and considered likely to raise money laundering and terrorist financing concerns. In order to ensure coherency of Union law in that area, this Regulation should use the same definitions of crypto-assets, crypto-asset services and crypto-asset service providers as those used in Regulation (EU) 2023/1114.
- (11) The implementation and enforcement of this Regulation represent relevant and effective means of preventing and combating money laundering and terrorist financing.
- (12) This Regulation is not intended to impose unnecessary burdens or costs on payment service providers, crypto-asset service providers or persons who use their services. In that regard, the preventive approach should be targeted and proportionate and should be in full compliance with the free movement of capital, which is guaranteed throughout the Union.
- (13) The Union's Revised Strategy on Terrorist Financing of 17 July 2008 (the 'Revised Strategy') states that efforts must be maintained to prevent terrorist financing and to control the use by suspected terrorists of their own financial resources. It recognises that FATF is constantly seeking to improve its recommendations and is working towards a common understanding of how they should be implemented. The Revised Strategy notes that implementation of the revised FATF Recommendations by all FATF members and members of FATF-style regional bodies is assessed on a regular basis and that a common approach to implementation by Member States is therefore important.
- (14) In addition, the Commission in its communication of 7 May 2020 on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing identified six priority areas for urgent action to improve the Union's anti-money laundering and counter-terrorist financing regime, including the establishment of a coherent regulatory framework for that regime in the Union to obtain more detailed and harmonised rules, in particular to address the implications of technological innovation and developments in international standards and to avoid diverging implementation of existing rules. Work at international level suggests a need to expand the scope of sectors or entities covered by that regime and to assess how it should apply to crypto-asset service providers not covered so far.

⁶⁸ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

⁶⁹ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

⁷⁰ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

- (15) In order to prevent terrorist financing, measures with the purpose of freezing the funds and economic resources of certain persons, groups and entities have been taken, including Council Regulations (EC) No 2580/2001⁷¹, (EC) No 881/2002⁷² and (EU) No 356/2010⁷³. To the same end, measures with the purpose of protecting the financial system against the channelling of funds and economic resources for terrorist purposes have also been taken. Directive (EU) 2015/849 contains a number of such measures. Those measures do not, however, fully prevent terrorists or other criminals from accessing payment systems for transferring their funds.
- (16) The traceability of transfers of funds and crypto-assets can be a particularly important and valuable tool in the prevention, detection and investigation of money laundering and terrorist financing, as well as in the implementation of restrictive measures, in particular those imposed by Regulations (EC) No 2580/2001, (EC) No 881/2002 and (EU) No 356/2010. It is therefore appropriate, in order to ensure the transmission of information throughout the payment chain or the transfer of crypto-assets chain, to provide for a system imposing the obligation on payment service providers to accompany transfers of funds with information on the payer and the payee and the obligation on crypto-asset service providers to accompany transfers of crypto-assets with information on the originator and the beneficiary.
- (17) Certain transfers of crypto-assets entail specific high-risk factors for money laundering, terrorist financing and other criminal activities, in particular transfers related to products, transactions or technologies designed to enhance anonymity, including privacy wallets, mixers or tumblers. To ensure the traceability of such transfers, the European Supervisory Authority (European Banking Authority), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁷⁴ (EBA), should clarify, in particular, how the risk factors listed in Annex III to Directive (EU) 2015/849 are to be taken into account by crypto-asset service providers, including when carrying out transactions with non-Union entities that are not regulated, registered or licensed in any third country, or with self-hosted addresses. Where situations of higher risk are identified, EBA should issue guidelines specifying the enhanced due diligence measures that obliged entities should consider applying to mitigate such risks, including the adoption of appropriate procedures such as the use of distributed ledger technology (DLT) analytic tools, to detect the origin or destination of crypto-assets.
- (18) This Regulation should apply without prejudice to the national restrictive measures and Union restrictive measures imposed by regulations based on Article 215 of the Treaty on the Functioning of the European Union, such as Regulations (EC) No 2580/2001, (EC) No 881/2002 and (EU) No 356/2010 and Council Regulations (EU) No 267/2012⁷⁵, (EU) 2016/1686⁷⁶ and (EU) 2017/1509⁷⁷, which may require that payment service providers of payers and of payees, crypto-asset service providers of originators and of beneficiaries,

⁷¹ Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28.12.2001, p. 70).

⁷² Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations (OJ L 139, 29.5.2002, p. 9).

⁷³ Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ L 105, 27.4.2010, p. 1).

⁷⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁷⁵ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

⁷⁶ Council Regulation (EU) 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaeda and natural and legal persons, entities or bodies associated with them (OJ L 255, 21.9.2016, p. 1).

⁷⁷ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

intermediary payment service providers, as well as intermediary crypto-asset service providers, take appropriate action to freeze certain funds and crypto-assets or that they comply with specific restrictions concerning certain transfers of funds or of crypto-assets. Payment service providers and crypto-asset service providers should have in place internal policies, procedures and controls to ensure implementation of those restrictive measures, including screening measures against Union and national lists of designated persons. EBA should issue guidelines specifying those internal policies, procedures and controls. It is intended that the requirements of this Regulation on internal policies, procedures and controls related to restrictive measures will be repealed in the near future by a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

- (19) The processing of personal data under this Regulation should take place in full compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁷⁸. Further processing of personal data for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. In applying this Regulation, the transfer of personal data to a third country is required to be carried out in accordance with Chapter V of Regulation (EU) 2016/679. It is important that payment service providers and crypto-asset service providers operating in multiple jurisdictions with branches or subsidiaries located outside the Union should not be prevented from transferring data about suspicious transactions within the same organisation, provided that they apply adequate safeguards. In addition, the crypto-asset service providers of the originator and of the beneficiary, the payment service providers of the payer and of the payee and the intermediary payment service providers and intermediary crypto-asset service providers should have in place appropriate technical and organisational measures to protect personal data against accidental loss, alteration, or unauthorised disclosure or access.
- (20) Persons that merely convert paper documents into electronic data and are acting under a contract with a payment service provider, and persons that provide payment service providers solely with messaging or other support systems for transmitting funds or with clearing and settlement systems should not fall within the scope of this Regulation.
- (21) Persons that provide only ancillary infrastructure, such as internet network and infrastructure service providers, cloud service providers or software developers, that enables another entity to provide transfer services for crypto-assets, should not fall within the scope of this Regulation unless they perform transfers of crypto-assets.
- (22) This Regulation should not apply to person-to-person transfers of crypto-assets conducted without the involvement of a crypto-asset service provider, or to cases where both the originator and the beneficiary are providers of transfer services for crypto-assets acting on their own behalf.
- (23) Transfers of funds corresponding to services referred to in Article 3, points (a) to (m) and point (o), of Directive (EU) 2015/2366 of the European Parliament and of the Council⁷⁹ do not fall within the scope of this Regulation. It is also appropriate to exclude from the scope of this Regulation transfers of funds and of electronic money tokens, as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114, that represent a low risk of money laundering or terrorist financing. Such exclusions should cover payment cards, electronic money instruments, mobile phones or other digital or information technology (IT) prepaid or

⁷⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁷⁹ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

postpaid devices with similar characteristics, where they are used exclusively for the purchase of goods or services and the number of the card, instrument or device accompanies all transfers. However, the use of a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics in order to effect a transfer of funds or of electronic money tokens between natural persons acting as consumers for purposes other than trade, business or professional activity, falls within the scope of this Regulation. In addition, automated teller machine withdrawals, payments of taxes, fines or other levies, transfers of funds carried out through cheque images exchanges, including truncated cheques, or bills of exchange, and transfers of funds where both the payer and the payee are payment service providers acting on their own behalf should be excluded from the scope of this Regulation.

- (24) Crypto-assets that are unique and not fungible are not subject to the requirements of this Regulation unless they are classified as crypto-assets or funds under Regulation (EU) 2023/1114.
- (25) Crypto-asset automated teller machines (the 'crypto-ATMs') can enable users to perform transfers of crypto-assets to a crypto-asset address by depositing cash, often without any form of customer identification and verification. Crypto-ATMs are particularly exposed to money laundering and terrorist financing risks because the anonymity they provide, and the possibility of operating with cash of unknown origin, make them an ideal vehicle for illicit activities. Given the role of crypto-ATMs in providing or actively facilitating transfers of crypto-assets, transfers of crypto-assets linked to crypto-ATMs should fall under the scope of this Regulation.
- (26) In order to reflect the special characteristics of national payment systems, and provided that it is always possible to trace the transfer of funds back to the payer, Member States should be able to exempt from the scope of this Regulation certain domestic low-value transfers of funds, including electronic giro payments, used for the purchase of goods or services.
- (27) Due to the inherent borderless nature and global reach of transfers of crypto-assets and of the provision of crypto-asset services, there are no objective reasons to distinguish the treatment of money laundering and terrorist financing risks of national transfers from that of cross-border transfers. In order to reflect those specific features, no exemption from the scope of this Regulation should be granted to domestic low-value transfers of crypto-assets, in line with the FATF requirement to treat all transfers of crypto-assets as cross-border.
- (28) Payment service providers and crypto-asset service providers should ensure that the information on the payer and the payee or on the originator and the beneficiary is not missing or incomplete.
- (29) In order not to impair the efficiency of payment systems and in order to balance the risk of driving transactions underground as a result of overly strict identification requirements against the potential terrorist threat posed by small transfers of funds, the obligation to check whether information on the payer or the payee is accurate should, in the case of transfers of funds where verification has not yet taken place, be imposed only in respect of individual transfers of funds that exceed EUR 1 000, unless the transfer appears to be linked to other transfers of funds which together would exceed EUR 1 000, the funds have been received or paid out in cash or in anonymous electronic money, or where there are reasonable grounds for suspecting money laundering or terrorist financing.
- (30) Compared to transfers of funds, transfers of crypto-assets can be carried out across multiple jurisdictions at a larger scale and higher speed due to their global reach and technological characteristics. In addition to the pseudo-anonymity of crypto-assets, those features of transfers of crypto-assets offer criminals the opportunity to carry out at high speed large illicit transfers while circumventing traceability obligations and avoiding detection, by means of structuring a large transaction into smaller amounts, using multiple seemingly unrelated DLT addresses, including one-time use DLT addresses, and using automated processes.

Most crypto-assets are also highly volatile and their value can fluctuate significantly within a very short timeframe which makes the calculation of linked transactions more uncertain. In order to reflect those specific features, transfers of crypto-assets should be subject to the same requirements regardless of their amount and of whether they are domestic or cross-border transfers.

- (31) For transfers of funds or for transfers of crypto-assets where verification is deemed to have taken place, payment service providers and crypto-asset service providers should not be required to verify the accuracy of the information on the payer or the payee accompanying each transfer of funds, or on the originator and the beneficiary accompanying each transfer of crypto-assets, provided that the obligations laid down in Directive (EU) 2015/849 are met.
- (32) In view of the Union legislative acts in respect of payment services, namely Regulation (EU) No 260/2012 of the European Parliament and of the Council⁸⁰, Directive (EU) 2015/2366 and Regulation (EU) 2021/1230 of the European Parliament and of the Council⁸¹, it should be sufficient to provide that only simplified information accompany transfers of funds within the Union, such as the payment account number or a unique transaction identifier.
- (33) In order to allow the authorities responsible for combating money laundering or terrorist financing in third countries to trace the source of funds or crypto-assets used for those purposes, transfers of funds or transfers of crypto-assets from the Union to outside the Union should carry complete information on the payer and the payee, in respect of transfers of funds, and on the originator and the beneficiary, in respect of transfers of crypto-assets. Complete information on the payer and the payee should include the legal entity identifier (LEI), or any equivalent official identifier, where that identifier is provided by the payer to its payment service provider, since that would allow for better identification of the parties involved in a transfer of funds and could easily be included in existing payment message formats, such as that developed by the International Organisation for Standardisation for electronic data interchange between financial institutions. The authorities responsible for combating money laundering or terrorist financing in third countries should be granted access to complete information on the payer and the payee or on the originator and the beneficiary, as applicable, only for the purposes of preventing, detecting and investigating money laundering and terrorist financing.
- (34) Crypto-assets exist in a borderless virtual reality and can be transferred to any crypto-asset service provider, whether or not that provider is registered in a jurisdiction. Many non-Union jurisdictions have in place rules relating to data protection and its enforcement that differ from those in the Union. When transferring crypto-assets on behalf of a client to a crypto-asset service provider that is not registered in the Union, the crypto-asset service provider of the originator should assess the ability of the crypto-asset service provider of the beneficiary to receive and retain the information required under this Regulation in compliance with Regulation (EU) 2016/679, using, where appropriate, the options available in Chapter V of Regulation (EU) 2016/679. The European Data Protection Board should, after consulting EBA, issue guidelines on the practical implementation of data protection requirements for transfers of personal data to third countries in the context of transfers of crypto-assets. Situations might occur where personal data cannot be sent because the requirements of Regulation (EU) 2016/679 cannot be fulfilled. EBA should issue guidelines on suitable procedures for determining whether the transfer of crypto-assets should be executed, rejected or suspended in such cases.

⁸⁰ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

⁸¹ Regulation (EU) 2021/1230 of the European Parliament and of the Council of 14 July 2021 on cross-border payments in the Union (OJ L 274, 30.7.2021, p. 20).

- (35) The Member State authorities responsible for combating money laundering and terrorist financing, and relevant judicial and law enforcement authorities in the Member States and at Union level, should intensify cooperation with each other and with relevant third country authorities, including those in developing countries, in order to strengthen further transparency and the sharing of information and best practices.
- (36) The crypto-asset service provider of the originator should ensure that transfers of crypto-assets are accompanied by the name of the originator, the originator's distributed ledger address, in cases where a transfer of crypto-assets is registered on a network using DLT or similar technology, the originator's crypto-asset account number, in cases where such an account exists and is used to process the transaction, the originator's address including the name of the country, official personal document number and customer identification number, or, alternatively, the originator's date and place of birth, and, subject to the existence of the necessary field in the relevant message format and where provided by the originator to its crypto-asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the originator. The information should be submitted in a secure manner and in advance of, or simultaneously or concurrently with, the transfer of crypto-assets.
- (37) The crypto-asset service provider of the originator should also ensure that transfers of crypto-assets are accompanied by the name of the beneficiary, the beneficiary's distributed ledger address, in cases where a transfer of crypto-assets is registered on a network using DLT or similar technology, the beneficiary's account number, in cases where such an account exists and is used to process the transaction and, subject to the existence of the necessary field in the relevant message format and where provided by the originator to its crypto-asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the beneficiary. The information should be submitted in a secure manner and in advance of, or simultaneously or concurrently with, the transfer of crypto-assets.
- (38) Regarding transfers of crypto-assets, the requirements of this Regulation should apply to all transfers including transfers of crypto-assets to or from a self-hosted address, as long as there is a crypto-asset service provider involved.
- (39) In the case of a transfer to or from a self-hosted address, the crypto-asset service provider should collect the information on both the originator and the beneficiary, usually from its client. A crypto-asset service provider should in principle not be required to verify the information on the user of the self-hosted address. Nonetheless, in the case of a transfer of an amount exceeding EUR 1 000 that is sent or received on behalf of a client of a crypto-asset service provider to or from a self-hosted address, that crypto-asset service provider should verify whether that self-hosted address is effectively owned or controlled by that client.
- (40) As regards transfers of funds from a single payer to several payees that are to be sent in a batch file transfer containing individual transfers from the Union to outside the Union, provision should be made for such individual transfers to carry only the payment account number of the payer or the unique transaction identifier, as well as complete information on the payee, provided that the batch file contains complete information on the payer that is verified for accuracy and complete information on the payee that is fully traceable.
- (41) As regards batch file transfers of crypto-assets, the submission of information on the originator and beneficiary in batches should be accepted, as long as that submission occurs immediately and securely. It should not be permitted to submit the required information after the transfer, as submission must occur before or at the moment the transaction is completed, and crypto-asset service providers or other obliged entities should submit the required information simultaneously with the batch file transfer of crypto-assets.
- (42) In order to check whether the required information on the payer and the payee accompanies transfers of funds, and to help identify suspicious transactions, the payment service provider of the payee and the intermediary payment service provider should have effective procedures in place to detect whether

information on the payer and the payee is missing or incomplete. Those procedures should include monitoring after or during the transfers where appropriate. Competent authorities should ensure that payment service providers include the required transaction information with the wire transfer or related message throughout the payment chain.

- (43) As regards transfers of crypto-assets, the crypto-asset service provider of the beneficiary should implement effective procedures to detect whether the information on the originator or beneficiary is missing or incomplete. Those procedures should include, where appropriate, monitoring after or during the transfers. It should not be required that the information is attached directly to the transfer of crypto-assets itself, as long as it is submitted in advance of, or simultaneously or concurrently with, the transfer of crypto-assets, and is available upon request to appropriate authorities.

- (44) Given the potential threat of money laundering and terrorist financing presented by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee and to require crypto-asset service providers to request information on the originator and the beneficiary. In line with the risk-based approach developed by FATF, it is appropriate to identify areas of higher and lower risk, with a view to better targeting the risk of money laundering and terrorist financing. Accordingly, the crypto-asset service provider of the beneficiary, the payment service provider of the payee, the intermediary payment service provider and the intermediary crypto-asset service provider should have effective risk-based procedures that apply where a transfer of funds lacks the required information on the payer or the payee, or where a transfer of crypto-assets lacks the required information on the originator or the beneficiary, in order to allow that service provider to decide whether to execute, reject or suspend that transfer and to determine the appropriate follow-up action to take.

- (45) Crypto-asset service providers, like all obliged entities, should assess and monitor the risk related to their clients, products and delivery channels. Crypto-asset service providers should also assess the risk related to their transactions, including where performing transfers to or from self-hosted addresses. In the event that the crypto-asset service provider is or becomes aware that the information on the originator or beneficiary using the self-hosted address is inaccurate, or where the crypto-asset service provider encounters unusual or suspicious patterns of transactions or situations of higher risks of money laundering and terrorist financing associated with transfers involving self-hosted addresses, that crypto-asset service provider should implement, where appropriate, enhanced due diligence measures to manage and mitigate the risks appropriately. The crypto-asset service provider should take those circumstances into account when assessing whether a transfer of crypto-assets, or any related transaction, is unusual and whether it is to be reported to the Financial Intelligence Unit (FIU) in accordance with Directive (EU) 2015/849.

- (46) This Regulation should be reviewed in the context of the adoption of a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, a Directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 and a Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010, in order to ensure consistency with the relevant provisions.

- (47) When assessing the risks, the payment service provider of the payee, the intermediary payment service provider, the crypto-asset service provider of the beneficiary or the intermediary crypto-asset service provider should exercise special vigilance where it becomes aware that information on the payer or the payee or on the originator or the beneficiary, as applicable, is missing or incomplete, or where a transfer of crypto-assets is required to be considered suspicious based on the origin or destination of the crypto-assets concerned, and should report suspicious transactions to the competent authorities in accordance with the reporting obligations set out in Directive (EU) 2015/849.

- (48) Similar to transfers of funds between payment service providers, transfers of crypto-assets involving intermediary crypto-asset service providers might facilitate transfers as an intermediate element in a chain of transfers of crypto-assets. In line with international standards, such intermediary providers should also be subject to the requirements set out in this Regulation, in the same way as existing obligations on intermediary payment service providers.
- (49) The provisions on transfers of funds and transfers of crypto-assets in relation to which information on the payer or the payee or the originator or the beneficiary is missing or incomplete, and in relation to which transfers of crypto-assets are required to be considered suspicious based on the origin or destination of the crypto-assets concerned, apply without prejudice to any obligations on payment service providers, intermediary payment service providers, crypto-asset service providers and intermediary crypto-asset service providers to reject or suspend transfers of funds and transfers of crypto-assets which breach a provision of civil, administrative or criminal law.
- (50) In order to ensure technology neutrality, this Regulation should not mandate the use of a particular technology for the transfer of transaction information by crypto-asset service providers. To ensure the efficient implementation of requirements applicable to crypto-asset service providers under this Regulation, standard-setting initiatives involving or led by the crypto-asset industry will be critical. The resulting solutions should be interoperable through the use of international or Union-wide standards in order to allow for a swift exchange of information.
- (51) With the aim of assisting payment service providers and crypto-asset service providers to put effective procedures in place to detect cases in which they receive transfers of funds or transfers of crypto-assets with missing or incomplete information on the payer, payee, originator or beneficiary and to take effective follow-up action, EBA should issue guidelines.
- (52) To enable prompt action to be taken in the fight against money laundering and terrorist financing, payment service providers and crypto-asset service providers should respond promptly to requests for information on the payer and the payee or on the originator and the beneficiary from the authorities responsible for combating money laundering or terrorist financing in the Member State where those payment service providers are established or where those crypto-asset service providers have their registered office.
- (53) The number of working days elapsing in the Member State of the payment service provider of the payer determines the number of days to respond to requests for information on the payer.
- (54) As it may not be possible in criminal investigations to identify the data required or the individuals involved in a transaction until many months, or even years, after the original transfer of funds or transfer of crypto-assets, and in order to be able to have access to essential evidence in the context of investigations, it is appropriate to require payment service providers or crypto-asset service providers to keep records of information on the payer and the payee or the originator and the beneficiary for a period of time for the purposes of preventing, detecting and investigating money laundering and terrorist financing. That period should be limited to five years, after which all personal data should be deleted unless national law provides otherwise. If necessary for the purposes of preventing, detecting or investigating money laundering or terrorist financing, and after carrying out an assessment of the necessity and proportionality of the measure, Member States should be able to allow or require retention of records for a further period of no more than five years, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings and in full compliance with Directive (EU) 2016/680 of the European

Parliament and of the Council⁸². Those measures could be reviewed in light of the adoption of a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

- (55) In order to improve compliance with this Regulation, and in accordance with the Commission Communication of 9 December 2010 entitled 'Reinforcing sanctioning regimes in the financial services sector', the power to adopt supervisory measures and the sanctioning powers of competent authorities should be enhanced. Administrative sanctions and measures should be provided for and, given the importance of the fight against money laundering and terrorist financing, Member States should lay down sanctions and measures that are effective, proportionate and dissuasive. Member States should notify the Commission and the permanent internal committee on anti-money-laundering and countering terrorist financing referred to in Article 9a(7) of Regulation (EU) No 1093/2010 thereof.
- (56) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸³.
- (57) A number of countries and territories which do not form part of the territory of the Union share a monetary union with a Member State, form part of the currency area of a Member State or have signed a monetary convention with the Union represented by a Member State, and have payment service providers that participate directly or indirectly in the payment and settlement systems of that Member State. In order to avoid the application of this Regulation to transfers of funds between the Member States concerned and those countries or territories having a significant negative effect on the economies of those countries or territories, it is appropriate to provide for the possibility for such transfers of funds to be treated as transfers of funds within the Member States concerned.
- (58) Given the potential high risks associated with, and the technological and regulatory complexity posed by, self-hosted addresses, including in relation to the verification of ownership information, by 1 July 2026, the Commission should assess the need for additional specific measures to mitigate the risks posed by transfers to or from self-hosted addresses or to or from entities not established in the Union, including the introduction of possible restrictions, and should assess the effectiveness and proportionality of the mechanisms used to verify the accuracy of information concerning the ownership of self-hosted addresses.
- (59) At present, Directive (EU) 2015/849 only applies to two categories of crypto-asset service providers, namely, custodial wallet providers and providers engaged in exchange services between virtual currencies and fiat currencies. In order to close existing loopholes in the anti-money laundering and counter-terrorist financing framework and to align Union law with international recommendations, Directive (EU) 2015/849 should be amended to include all categories of crypto-asset service providers as defined in Regulation (EU) 2023/1114, which covers a broader range of crypto-asset service providers. In particular, with a view to ensuring that crypto-asset service providers are subject to the same requirements and level of supervision as credit and financial institutions, it is appropriate to update the list of obliged entities by including crypto-asset service providers within the category of financial institutions for the purpose of Directive (EU) 2015/849. In addition, taking into account that traditional financial institutions also fall within the definition of crypto-asset service providers when offering such services, the identification of crypto-asset service providers as

⁸² Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

⁸³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

financial institutions allows for a single consistent set of rules that applies to entities providing both traditional financial services and crypto-asset services. Directive (EU) 2015/849 should also be amended in order to ensure that crypto-asset service providers are able to appropriately mitigate the money laundering and terrorist financing risks to which they are exposed.

- (60) Relationships established between crypto-asset service providers and entities established in third countries for the purpose of executing transfers of crypto-assets or the provision of similar crypto-asset services present similarities to correspondent banking relationships established with a third country's respondent institution. As those relationships are characterised by an ongoing and repetitive nature, they should be considered a type of correspondent relationship and be subject to specific enhanced due diligence measures similar in principle to those applied in the context of banking and financial services. In particular, crypto-asset service providers should, when establishing a new correspondent relationship with a respondent entity, apply specific enhanced due diligence measures in order to identify and assess the risk exposure of that respondent, based on its reputation, the quality of supervision and its anti-money laundering and counter-terrorist financing (AML/CFT) controls. Based on the information gathered, the correspondent crypto-asset service providers should implement appropriate risk mitigating measures, which should take into account in particular the potential higher risk of money laundering and terrorist financing posed by unregistered and unlicensed entities. That is especially relevant as long as the implementation of the FATF standards relating to crypto-assets at global level remains uneven, which poses additional risks and challenges. EBA should provide guidance on how crypto-asset service providers should conduct the enhanced due diligence and should specify the appropriate risk mitigating measures, including the minimum action to be taken, when interacting with unregistered or unlicensed entities which provide crypto-asset services.
- (61) Regulation (EU) 2023/1114 has established a comprehensive regulatory framework for crypto-asset service providers which harmonises the rules pertaining to the authorisation and operation of crypto-asset service providers across the Union. In order to avoid duplication of requirements, Directive (EU) 2015/849 should be amended to remove registration requirements in relation to those categories of crypto-asset service providers which will become subject to a single licensing regime under Regulation (EU) 2023/1114.
- (62) Since the objectives of this Regulation, namely to fight money laundering and the financing of terrorism, including by implementing international standards and by ensuring the availability of basic information on payers and payees of transfer of funds, and on originators and beneficiaries of transfers of crypto-assets, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (63) This Regulation is subject to Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 of the European Parliament and of the Council⁸⁴. It respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7), the right to the protection of personal data (Article 8), the right to an effective remedy and to a fair trial (Article 47) and the principle of ne bis in idem.

⁸⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (64) In order to ensure consistency with Regulation (EU) 2023/1114, this Regulation should apply from the date of application of that Regulation. By that date, Member States should also transpose the amendments to Directive (EU) 2015/849.
- (65) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 22 September 2021⁸⁵,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter, scope and definitions

Article 1

Subject matter

This Regulation lays down rules on the information on payers and payees accompanying transfers of funds, in any currency, and on the information on originators and beneficiaries accompanying transfers of crypto-assets, for the purposes of preventing, detecting and investigating money laundering and terrorist financing, where at least one of the payment service providers or crypto-asset service providers involved in the transfer of funds or transfer of crypto-assets is established or has its registered office, as applicable, in the Union. In addition, this Regulation lays down rules on internal policies, procedures and controls to ensure implementation of restrictive measures where at least one of the payment service providers or crypto-asset service providers involved in the transfer of funds or transfer of crypto-assets is established or has its registered office, as applicable, in the Union.

Article 2

Scope

1. This Regulation shall apply to transfers of funds, in any currency, which are sent or received by a payment service provider or an intermediary payment service provider established in the Union. It shall also apply to transfers of crypto-assets, including transfers of crypto-assets executed by means of crypto-ATMs, where the crypto-asset service provider, or the intermediary crypto-asset service provider, of either the originator or the beneficiary has its registered office in the Union.

2. This Regulation shall not apply to the services listed in Article 3, points (a) to (m) and point (o), of Directive (EU) 2015/2366.

3. This Regulation shall not apply to transfers of funds or to transfers of electronic money tokens, as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114, carried out using a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics, provided that the following conditions are met:

- (a) that card, instrument or device is used exclusively to pay for goods or services; and
- (b) the number of that card, instrument or device accompanies all transfers flowing from the transaction.

However, this Regulation shall apply when a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics is used in order to effect a transfer

⁸⁵ OJ C 524, 29.12.2021, p. 10.

of funds or electronic money tokens between natural persons acting as consumers for purposes other than trade, business or professional activity.

This Regulation shall not apply to persons that have no activity other than to convert paper documents into electronic data and that do so pursuant to a contract with a payment service provider, or to persons that have no activity other than to provide payment service providers with messaging or other support systems for transmitting funds or with clearing and settlement systems.

4. This Regulation shall not apply to a transfer of funds where any of the following conditions is met:

- (a) it involves the payer withdrawing cash from the payer's own payment account;
- (b) it constitutes a transfer of funds to a public authority as payment for taxes, fines or other levies within a Member State;
- (c) both the payer and the payee are payment service providers acting on their own behalf;
- (d) it is carried out through cheque images exchanges, including truncated cheques.

This Regulation shall not apply to a transfer of crypto-assets where any of the following conditions is met:

- (a) both the originator and the beneficiary are crypto-asset service providers acting on their own behalf;
- (e) the transfer constitutes a person-to-person transfer of crypto-assets carried out without the involvement of a crypto-asset service provider.

Electronic money tokens, as defined in Article 3(1), point (7), of Regulation (EU) 2023/1114, shall be treated as crypto-assets under this Regulation.

5. A Member State may decide not to apply this Regulation to transfers of funds within its territory to a payee's payment account permitting payment exclusively for the provision of goods or services where all of the following conditions are met:

- (a) the payment service provider of the payee is subject to Directive (EU) 2015/849;
- (b) the payment service provider of the payee is able to trace back, through the payee, by means of a unique transaction identifier, the transfer of funds from the person who has an agreement with the payee for the provision of goods or services;
- (c) the amount of the transfer of funds does not exceed EUR 1 000.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- 1.** 'terrorist financing' means terrorist financing as defined in Article 1(5) of Directive (EU) 2015/849;
- 2.** 'money laundering' means the money laundering activities referred to in Article 1(3) and (4) of Directive (EU) 2015/849;
- 3.** 'payer' means a person that holds a payment account and allows a transfer of funds from that payment account or, where there is no payment account, that gives a transfer of funds order;

4. 'payee' means a person that is the intended recipient of the transfer of funds;
5. 'payment service provider' means the categories of payment service provider referred to in Article 1(1) of Directive (EU) 2015/2366, natural or legal persons benefiting from a waiver pursuant to Article 32 thereof and legal persons benefiting from a waiver pursuant to Article 9 of Directive 2009/110/EC, providing transfer of funds services;
6. 'intermediary payment service provider' means a payment service provider that is not the payment service provider of the payer or of the payee and that receives and transmits a transfer of funds on behalf of the payment service provider of the payer or of the payee or of another intermediary payment service provider;
7. 'payment account' means a payment account as defined in Article 4, point (12), of Directive (EU) 2015/2366;
8. 'funds' means funds as defined in Article 4, point (25), of Directive (EU) 2015/2366;
9. 'transfer of funds' means any transaction at least partially carried out by electronic means on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person and irrespective of whether the payment service provider of the payer and that of the payee are one and the same, including:
 - (a) a credit transfer as defined in Article 4, point (24), of Directive (EU) 2015/2366;
 - (b) a direct debit as defined in Article 4, point (23), of Directive (EU) 2015/2366;
 - (c) a money remittance as defined in Article 4, point (22), of Directive (EU) 2015/2366, whether national or cross-border;
 - (d) a transfer carried out using a payment card, an electronic money instrument, a mobile phone or any other digital or IT prepaid or postpaid device with similar characteristics;
10. 'transfer of crypto-assets' means any transaction with the aim of moving crypto-assets from one distributed ledger address, crypto-asset account or other device allowing the storage of crypto-assets to another, carried out by at least one crypto-asset service provider acting on behalf of either an originator or a beneficiary, irrespective of whether the originator and the beneficiary are the same person and irrespective of whether the crypto-asset service provider of the originator and that of the beneficiary are one and the same;
11. 'batch file transfer' means a bundle of several individual transfers of funds or transfers of crypto-assets put together for transmission;
12. 'unique transaction identifier' means a combination of letters, numbers or symbols determined by the payment service provider, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, or determined by a crypto-asset service provider, which permits the traceability of the transaction back to the payer and the payee or the traceability of the transfer of crypto-assets back to the originator and the beneficiary;
13. 'person-to-person transfer of crypto-assets' means a transfer of crypto-assets without the involvement of any crypto-asset service provider;
14. 'crypto-asset' means a crypto-asset as defined in Article 3(1), point (5), of Regulation (EU) 2023/1114, except where falling within the categories listed in Article 2(2), (3) and (4) of that Regulation or otherwise qualifying as funds;

- 15.** 'crypto-asset service provider' means a crypto-asset service provider as defined in Article 3(1), point (15), of Regulation (EU) 2023/1114, where performing one or more crypto-asset services as defined in Article 3(1), point (16), of that Regulation;
- 16.** 'intermediary crypto-asset service provider' means a crypto-asset service provider that is not the crypto-asset service provider of the originator or of the beneficiary and that receives and transmits a transfer of crypto-assets on behalf of the crypto-asset service provider of the originator or of the beneficiary, or of another intermediary crypto-asset service provider;
- 17.** 'crypto-asset automated teller machines' or 'crypto-ATMs' means physical or on-line electronic terminals that enable a crypto-asset service provider to perform, in particular, the activity of transfer services for crypto-assets, as referred to in Article 3(1), point (16)(j), of Regulation (EU) 2023/1114;
- 18.** 'distributed ledger address' means an alphanumeric code that identifies an address on a network using distributed ledger technology (DLT) or similar technology where crypto-assets can be sent or received;
- 19.** 'crypto-asset account' means an account held by a crypto-asset service provider in the name of one or more natural or legal persons and that can be used for the execution of transfers of crypto-assets;
- 20.** 'self-hosted address' means a distributed ledger address not linked to either of the following:
- (a) a crypto-asset service provider;
 - (b) an entity not established in the Union and providing services similar to those of a crypto-asset service provider;
- 21.** 'originator' means a person that holds a crypto-asset account with a crypto-asset service provider, a distributed ledger address or a device allowing the storage of crypto-assets, and allows a transfer of crypto-assets from that account, distributed ledger address, or device, or, where there is no such account, distributed ledger address, or device, a person that orders or initiates a transfer of crypto-assets;
- 22.** 'beneficiary' means a person that is the intended recipient of the transfer of crypto-assets;
- 23.** 'legal entity identifier' or 'LEI' means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity;
- 24.** 'distributed ledger technology' or 'DLT' means distributed ledger technology as defined in Article 3(1), point (1), of Regulation (EU) 2023/1114.

CHAPTER II

Obligations on payment service providers

Section 1

Obligations on the payment service provider of the payer

Article 4

Information accompanying transfers of funds

- 1.** The payment service provider of the payer shall ensure that transfers of funds are accompanied by the following information on the payer:

- (a) the name of the payer;
 - (b) the payer's payment account number;
 - (c) the payer's address including the name of the country, official personal document number and customer identification number, or, alternatively, the payer's date and place of birth; and
 - (d) subject to the existence of the necessary field in the relevant payments message format, and where provided by the payer to its payment service provider, the current LEI of the payer or, in its absence, any available equivalent official identifier.
2. The payment service provider of the payer shall ensure that transfers of funds are accompanied by the following information on the payee:
- (a) the name of the payee;
 - (b) the payee's payment account number; and
 - (c) subject to the existence of the necessary field in the relevant payments message format, and where provided by the payer to its payment service provider, the current LEI of the payee or, in its absence, any available equivalent official identifier.
3. By way of derogation from paragraph 1, point (b), and paragraph 2, point (b), in the case of a transfer not made to or from a payment account, the payment service provider of the payer shall ensure that the transfer of funds is accompanied by a unique transaction identifier rather than the payment account number.
4. Before transferring funds, the payment service provider of the payer shall verify the accuracy of the information referred to in paragraph 1 and, where applicable, in paragraph 3, on the basis of documents, data or information obtained from a reliable and independent source.
5. Verification as referred to in paragraph 4 of this Article shall be deemed to have taken place where one of the following applies:
- (d) the identity of the payer has been verified in accordance with Article 13 of Directive (EU) 2015/849 and the information obtained pursuant to that verification has been retained in accordance with Article 40 of that Directive;
 - (a) Article 14(5) of Directive (EU) 2015/849 applies to the payer.
6. Without prejudice to the derogations provided for in Articles 5 and 6, the payment service provider of the payer shall not execute any transfer of funds before ensuring full compliance with this Article.

Article 5

Transfers of funds within the Union

1. By way of derogation from Article 4(1) and (2), where all payment service providers involved in the payment chain are established in the Union, transfers of funds shall be accompanied by at least the payment account

number of both the payer and the payee or, where Article 4(3) applies, the unique transaction identifier, without prejudice to the information requirements laid down in Regulation (EU) No 260/2012, where applicable.

2. Notwithstanding paragraph 1, the payment service provider of the payer shall, within three working days of receiving a request for information from the payment service provider of the payee or from the intermediary payment service provider, make available the following:

- (a) for transfers of funds exceeding EUR 1 000, whether such transfers are carried out in a single transaction or in several transactions which appear to be linked, the information on the payer or the payee in accordance with Article 4;
- (b) for transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, at least:
 - (i) the names of the payer and of the payee; and
 - (ii) the payment account numbers of the payer and of the payee or, where Article 4(3) applies, the unique transaction identifier.

3. By way of derogation from Article 4(4), in the case of transfers of funds referred to in paragraph 2, point (b), of this Article, the payment service provider of the payer need not verify the information on the payer unless the payment service provider of the payer:

- (a) has received the funds to be transferred in cash or in anonymous electronic money; or
- (b) has reasonable grounds for suspecting money laundering or terrorist financing.

Article 6

Transfers of funds to outside the Union

1. In the case of a batch file transfer from a single payer where the payment service providers of the payees are established outside the Union, Article 4(1) shall not apply to the individual transfers bundled together therein, provided that the batch file contains the information referred to in Article 4(1), (2) and (3), that that information has been verified in accordance with Article 4(4) and (5), and that the individual transfers carry the payment account number of the payer or, where Article 4(3) applies, the unique transaction identifier.

2. By way of derogation from Article 4(1), and, where applicable, without prejudice to the information required in accordance with Regulation (EU) No 260/2012, where the payment service provider of the payee is established outside the Union, transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, shall be accompanied by at least:

- (a) the names of the payer and of the payee; and
- (b) the payment account numbers of the payer and of the payee or, where Article 4(3) applies, the unique transaction identifier.

3. By way of derogation from Article 4(4), the payment service provider of the payer need not verify the information on the payer referred to in this paragraph unless the payment service provider of the payer:

- (a) has received the funds to be transferred in cash or in anonymous electronic money; or

- (b) has reasonable grounds for suspecting money laundering or terrorist financing.

Section 2

Obligations on the payment service provider of the payee

Article 7

Detection of missing information on the payer or the payee

- 1.** The payment service provider of the payee shall implement effective procedures to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.
- 2.** The payment service provider of the payee shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the following information on the payer or the payee is missing:
 - (a) for transfers of funds where the payment service provider of the payer is established in the Union, the information referred to in Article 5;
 - (b) for transfers of funds where the payment service provider of the payer is established outside the Union, the information referred to in Article 4(1), points (a), (b) and (c), and Article 4(2), points (a) and (b);
 - (c) for batch file transfers where the payment service provider of the payer is established outside the Union, the information referred to in Article 4(1), points (a), (b) and (c), and Article 4(2), points (a) and (b), in respect of that batch file transfer.
- 3.** In the case of transfers of funds exceeding EUR 1 000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked, before crediting the payee's payment account or making the funds available to the payee, the payment service provider of the payee shall verify the accuracy of the information on the payee referred to in paragraph 2 of this Article on the basis of documents, data or information obtained from a reliable and independent source, without prejudice to the requirements laid down in Articles 83 and 84 of Directive (EU) 2015/2366.
- 4.** In the case of transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, the payment service provider of the payee need not verify the accuracy of the information on the payee, unless the payment service provider of the payee:
 - (a) effects the pay-out of the funds in cash or in anonymous electronic money; or
 - (b) has reasonable grounds for suspecting money laundering or terrorist financing.
- 5.** Verification as referred to in paragraphs 3 and 4 of this Article shall be deemed to have taken place where one of the following applies:
 - (a) the identity of the payee has been verified in accordance with Article 13 of Directive (EU) 2015/849 and the information obtained pursuant to that verification has been retained in accordance with Article 40 of that Directive;
 - (b) Article 14(5) of Directive (EU) 2015/849 applies to the payee.

Article 8

Transfers of funds with missing or incomplete information on the payer or the payee

1. The payment service provider of the payee shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in Article 13 of Directive (EU) 2015/849 for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

Where the payment service provider of the payee becomes aware, when receiving a transfer of funds, that the information referred to in Article 4(1), points (a), (b) and (c), Article 4(2), points (a) and (b), Article 5(1), or Article 6, is missing or incomplete or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in Article 7(1), the payment service provider of the payee shall, on a risk-sensitive basis:

- (a) reject the transfer; or
- (b) request the required information on the payer and the payee before or after crediting the payee's payment account or making the funds available to the payee.

2. Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the payment service provider of the payee shall:

- (a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with point (b) if the required information is still not provided; or
- (b) directly reject any future transfers of funds from that payment service provider, or restrict or terminate its business relationship with that payment service provider.

The payment service provider of the payee shall report that failure, and the steps taken, to the competent authority responsible for monitoring compliance with anti-money laundering and counter-terrorist financing provisions.

Article 9

Assessment and reporting

The payment service provider of the payee shall take into account missing or incomplete information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is

suspicious and whether it is to be reported to the Financial Intelligence Unit (FIU) in accordance with Directive (EU) 2015/849.

Section 3

Obligations on intermediary payment service providers

Article 10

Retention of information on the payer and the payee accompanying the transfer

Intermediary payment service providers shall ensure that all the information received on the payer and the payee that accompanies a transfer of funds is retained with the transfer.

Article 11

Detection of missing information on the payer or the payee

1. The intermediary payment service provider shall implement effective procedures to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.
2. The intermediary payment service provider shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the following information on the payer or the payee is missing:
 - (a) for transfers of funds where the payment service providers of the payer and the payee are established in the Union, the information referred to in Article 5;
 - (b) for transfers of funds where the payment service provider of the payer or of the payee is established outside the Union, the information referred to in Article 4(1), points (a), (b) and (c), and Article 4(2), points (a) and (b);
 - (c) for batch file transfers where the payment service provider of the payer or of the payee is established outside the Union, the information referred to in Article 4(1), points (a), (b) and (c), and Article 4(2), points (a) and (b), in respect of that batch file transfer.

Article 12

Transfers of funds with missing information on the payer or the payee

1. The intermediary payment service provider shall establish effective risk-based procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required payer and payee information and for taking the appropriate follow-up action.

Where the intermediary payment service provider becomes aware, when receiving a transfer of funds, that the information referred to in Article 4(1), points (a), (b) and (c), Article 4(2), points (a) and (b), Article 5(1), or Article 6, is missing or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in Article 7(1), that intermediary payment service provider shall on a risk-sensitive basis:

- (a) reject the transfer; or

(b) request the required information on the payer and the payee before or after the transmission of the transfer of funds.

2. Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the intermediary payment service provider shall:

- (a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with point (b) if the required information is still not provided; or
- (b) directly reject any future transfers of funds from that payment service provider or restrict or terminate its business relationship with that payment service provider.

The intermediary payment service provider shall report that failure, and the steps taken, to the competent authority responsible for monitoring compliance with anti-money laundering and counter-terrorist financing provisions.

Article 13

Assessment and reporting

The intermediary payment service provider shall take into account missing information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious, and whether it is to be reported to the FIU in accordance with Directive (EU) 2015/849.

CHAPTER III

Obligations on crypto-asset service providers

Section 1

Obligations on the crypto-asset service provider of the originator

Article 14

Information accompanying transfers of crypto-assets

1. The crypto-asset service provider of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the originator:

- (a) the name of the originator;
- (b) the originator's distributed ledger address, in cases where a transfer of crypto-assets is registered on a network using DLT or similar technology, and the crypto-asset account number of the originator, where such an account exists and is used to process the transaction;
- (c) the originator's crypto-asset account number, in cases where a transfer of crypto-assets is not registered on a network using DLT or similar technology;
- (d) the originator's address, including the name of the country, official personal document number and customer identification number, or, alternatively, the originator's date and place of birth; and

(e) subject to the existence of the necessary field in the relevant message format, and where provided by the originator to its crypto-asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the originator.

2. The crypto-asset service provider of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the beneficiary:

- (a) the name of the beneficiary;
- (b) the beneficiary's distributed ledger address, in cases where a transfer of crypto-assets is registered on a network using DLT or similar technology, and the beneficiary's crypto-asset account number, where such an account exists and is used to process the transaction;
- (c) the beneficiary's crypto-asset account number, in cases where a transfer of crypto-assets is not registered on a network using DLT or similar technology; and
- (d) subject to the existence of the necessary field in the relevant message format, and where provided by the originator to its crypto-asset service provider, the current LEI or, in its absence, any other available equivalent official identifier of the beneficiary.

3. By way of derogation from paragraph 1, point (c), and paragraph 2, point (c), in the case of a transfer of crypto-assets not registered on a network using DLT or similar technology and not made to or from a crypto-asset account, the crypto-asset service provider of the originator shall ensure that the transfer of crypto-assets is accompanied by a unique transaction identifier.

4. The information referred to in paragraphs 1 and 2 shall be submitted in advance of, or simultaneously or concurrently with, the transfer of crypto-assets and in a secure manner and in accordance with Regulation (EU) 2016/679.

The information referred to in paragraphs 1 and 2 shall not be required to be attached directly to, or be included in, the transfer of crypto-assets.

5. In the case of a transfer of crypto-assets made to a self-hosted address, the crypto-asset service provider of the originator shall obtain and hold the information referred to in paragraphs 1 and 2 and shall ensure that the transfer of crypto-assets can be individually identified.

Without prejudice to specific risk mitigating measures taken in accordance with Article 19b of Directive (EU) 2015/849, in the case of a transfer of an amount exceeding EUR 1 000 to a self-hosted address, the crypto-asset service provider of the originator shall take adequate measures to assess whether that address is owned or controlled by the originator.

6. Before transferring crypto-assets, the crypto-asset service provider of the originator shall verify the accuracy of the information referred to in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source.

7. Verification as referred to in paragraph 6 of this Article shall be deemed to have taken place where one of the following applies:

- (a) the identity of the originator has been verified in accordance with Article 13 of Directive (EU) 2015/849 and the information obtained pursuant to that verification has been retained in accordance with Article 40 of that Directive;
- (b) Article 14(5) of Directive (EU) 2015/849 applies to the originator.

8. The crypto-asset service provider of the originator shall not allow for the initiation, or execute any transfer, of crypto-assets before ensuring full compliance with this Article.

Article 15

Batch file transfers of crypto-assets

In the case of a batch file transfer of crypto-assets from a single originator, Article 14(1) shall not apply to the individual transfers bundled together therein, provided that the batch file contains the information referred to in Article 14(1), (2) and (3), that that information has been verified in accordance with Article 14(6) and (7), and that the individual transfers carry the distributed ledger address of the originator, where Article 14(2), point (b), applies, the crypto-asset account number of the originator, where Article 14(2), point (c), applies, or the unique transaction identifier, where Article 14(3) applies.

Section 2

Obligations on the crypto-asset service provider of the beneficiary

Article 16

Detection of missing information on the originator or the beneficiary

1. The crypto-asset service provider of the beneficiary shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information referred to in Article 14(1) and (2) on the originator and the beneficiary is included in, or follows, the transfer or batch file transfer of crypto-assets.

2. In the case of a transfer of crypto-assets made from a self-hosted address, the crypto-asset service provider of the beneficiary shall obtain and hold the information referred to in Article 14(1) and (2) and shall ensure that the transfer of crypto-assets can be individually identified.

Without prejudice to specific risk mitigating measures taken in accordance with Article 19b of Directive (EU) 2015/849, in the case of a transfer of an amount exceeding EUR 1 000 from a self-hosted address, the crypto-asset service provider of the beneficiary shall take adequate measures to assess whether that address is owned or controlled by the beneficiary.

3. Before making the crypto-assets available to the beneficiary, the crypto-asset service provider of the beneficiary shall verify the accuracy of the information on the beneficiary referred to in Article 14(2) on the basis of documents, data or information obtained from a reliable and independent source.

4. Verification as referred to in paragraphs 2 and 3 of this Article shall be deemed to have taken place where one of the following applies:

- (a) the identity of the beneficiary has been verified in accordance with Article 13 of Directive (EU) 2015/849 and the information obtained pursuant to that verification has been retained in accordance with Article 40 of that Directive;
- (b) Article 14(5) of Directive (EU) 2015/849 applies to the beneficiary.

*Article 17***Transfers of crypto-assets with missing or incomplete information on the originator or the beneficiary**

1. The crypto-asset service provider of the beneficiary shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in Article 13 of Directive (EU) 2015/849, for determining whether to execute, reject, return or suspend a transfer of crypto-assets lacking the required complete information on the originator and the beneficiary and for taking the appropriate follow-up action.

Where the crypto-asset service provider of the beneficiary becomes aware that the information referred to in Article 14(1) or (2), or in Article 15, is missing or incomplete, that crypto-asset service provider shall, on a risk-sensitive basis and without undue delay:

- (a) reject the transfer or return the transferred crypto-assets to the originator's crypto-asset account; or
- (b) request the required information on the originator and the beneficiary before making the crypto-assets available to the beneficiary.

2. Where a crypto-asset service provider repeatedly fails to provide the required information on the originator or the beneficiary, the crypto-asset service provider of the beneficiary shall:

- (a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with point (b) if the required information is still not provided; or
- (b) directly reject any future transfers of crypto-assets to or from, or restrict or terminate its business relationship with, that crypto-asset service provider.

The crypto-asset service provider of the beneficiary shall report that failure, and the steps taken, to the competent authority responsible for monitoring compliance with anti-money laundering and counter-terrorist financing provisions.

*Article 18***Assessment and reporting**

The crypto-asset service provider of the beneficiary shall take into account missing or incomplete information on the originator or the beneficiary as a factor when assessing whether a transfer of crypto-assets, or any related transaction, is suspicious and whether it is to be reported to the FIU in accordance with Directive (EU) 2015/849.

Section 3**Obligations on intermediary crypto-asset service providers***Article 19***Retention of information on the originator and the beneficiary accompanying the transfer**

Intermediary crypto-asset service providers shall ensure that all the information received on the originator and the beneficiary that accompanies a transfer of crypto-assets is transmitted with the transfer and that records of such information are retained and made available on request to the competent authorities.

*Article 20***Detection of missing information on the originator or the beneficiary**

The intermediary crypto-asset service provider shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information on the originator or the beneficiary referred to in Article 14(1), points (a), (b) and (c), and Article 14(2), points (a), (b) and (c), has been submitted previously, simultaneously or concurrently with the transfer or batch file transfer of crypto-assets, including where the transfer is made to or from a self-hosted address.

*Article 21***Transfers of crypto-assets with missing information on the originator or the beneficiary**

1. The intermediary crypto-asset service provider shall establish effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in Article 13 of Directive (EU) 2015/849, for determining whether to execute, reject, return or suspend a transfer of crypto-assets lacking the required information on the originator and the beneficiary and for taking the appropriate follow up action.

Where the intermediary crypto-asset service provider becomes aware, when receiving a transfer of crypto-assets, that the information referred to in Article 14(1), points (a), (b) and (c), and Article 14(2), points (a), (b) and (c), or Article 15(1), is missing or incomplete, that intermediary crypto-asset service provider shall, on a risk-sensitive basis and without undue delay:

- (a) reject the transfer or return the transferred crypto-assets; or
- (b) request the required information on the originator and the beneficiary before making the transmission of the transfer of crypto-assets.

2. Where the crypto-asset service provider repeatedly fails to provide the required information on the originator or the beneficiary, the intermediary crypto-asset service provider shall:

- (a) take steps, which may initially include the issuing of warnings and setting of deadlines, before proceeding to a rejection, restriction or termination in accordance with point (b) if the required information is still not provided; or
- (b) directly reject any future transfers of crypto-assets to or from, or restrict or terminate its business relationship with, that crypto-asset service provider.

The intermediary crypto-asset service provider shall report that failure, and the steps taken, to the competent authority responsible for monitoring compliance with anti-money laundering and counter-terrorist financing provisions.

*Article 22***Assessment and reporting**

The intermediary crypto-asset service provider shall take into account missing information on the originator or the beneficiary as a factor when assessing whether a transfer of crypto-assets, or any related transaction, is suspicious, and whether it is to be reported to the FIU in accordance with Directive (EU) 2015/849.

CHAPTER IV***Common measures applicable by payment service providers and crypto-asset service providers******Article 23*****Internal policies, procedures and controls to ensure implementation of restrictive measures**

Payment service providers and crypto-asset service providers shall have in place internal policies, procedures and controls to ensure the implementation of Union and national restrictive measures when performing transfers of funds and crypto-assets under this Regulation.

The European Banking Authority (EBA) shall issue guidelines by 30 December 2024 specifying the measures referred to in this Article.

CHAPTER V***Information, data protection and record-retention******Article 24*****Provision of information**

Payment service providers and crypto-asset service providers shall respond fully and without delay, including by means of a central contact point in accordance with Article 45(9) of Directive (EU) 2015/849, where such a contact point has been appointed, and in accordance with the procedural requirements laid down in the national law of the Member State in which they are established or have their registered office, as applicable, to enquiries exclusively from the authorities responsible for preventing and combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation.

Article 25**Data protection**

1. The processing of personal data under this Regulation is subject to Regulation (EU) 2016/679. Personal data that is processed pursuant to this Regulation by the Commission or EBA is subject to Regulation (EU) 2018/1725.
2. Personal data shall be processed by payment service providers and crypto-asset service providers on the basis of this Regulation only for the purposes of the prevention of money laundering and terrorist financing and shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for commercial purposes shall be prohibited.
3. Payment service providers and crypto-asset service providers shall provide new clients with the information required pursuant to Article 13 of Regulation (EU) 2016/679 before establishing a business relationship or carrying out an occasional transaction. That information shall be provided in a concise, transparent, intelligible and easily accessible form in accordance with Article 12 of Regulation (EU) 2016/679 and shall, in particular, include a general notice concerning the legal obligations of payment service providers and crypto-asset service providers under this Regulation when processing personal data for the purposes of the prevention of money laundering and terrorist financing.
4. Payment service providers and crypto-asset service providers shall ensure at all times that the transmission of any personal data on the parties involved in a transfer of funds or a transfer of crypto-assets is conducted in accordance with Regulation (EU) 2016/679.

The European Data Protection Board shall, after consulting EBA, issue guidelines on the practical implementation of data protection requirements for transfers of personal data to third countries in the context of transfers of crypto-assets. EBA shall issue guidelines on suitable procedures for determining whether to execute, reject, return or suspend a transfer of crypto-assets in situations where compliance with data protection requirements for the transfer of personal data to third countries cannot be ensured.

Article 26

Record retention

- 1.** Information on the payer and the payee or on the originator and beneficiary shall not be retained for longer than strictly necessary. Payment service providers of the payer and of the payee shall retain records of the information referred to in Articles 4 to 7, and crypto-asset service providers of the originator and beneficiary shall retain records of the information referred to in Articles 14 to 16, for a period of five years.
- 2.** Upon expiry of the retention period referred to in paragraph 1, payment service providers and crypto-asset service providers shall ensure that the personal data is deleted, unless otherwise provided for by national law which determines under which circumstances payment service providers and crypto-asset service providers may or shall further retain such data. Member States may allow or require further retention only after they have carried out a thorough assessment of the necessity and proportionality of such further retention, and where they consider it to be justified as necessary for the prevention, detection or investigation of money laundering or terrorist financing. That further retention period shall not exceed five years.
- 3.** Where, on 25 June 2015, legal proceedings concerned with the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing are pending in a Member State, and a payment service provider holds information or documents relating to those pending proceedings, the payment service provider may retain that information or those documents in accordance with national law for a period of five years from 25 June 2015. Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents for a further period of five years where the necessity and proportionality of such further retention has been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing.

Article 27

Cooperation among competent authorities

The exchange of information among competent authorities and with relevant third-country authorities under this Regulation shall be subject to Directive (EU) 2015/849.

CHAPTER VI

Sanctions and monitoring

Article 28

Administrative sanctions and measures

- 1.** Without prejudice to the right to provide for and impose criminal sanctions, Member States shall lay down the rules on administrative sanctions and measures applicable to breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions and measures provided for shall be effective, proportionate and dissuasive and shall be consistent with those laid down in accordance with Chapter VI, Section 4, of Directive (EU) 2015/849.

Member States may decide not to lay down rules on administrative sanctions or measures for breach of the provisions of this Regulation which are subject to criminal sanctions in their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

2. Member States shall ensure that, where obligations apply to payment service providers and crypto-asset service providers, in the event of a breach of provisions of this Regulation sanctions or measures can, subject to national law, be applied to the members of the management body of the relevant service provider and to any other natural person who, under national law, is responsible for the breach.

3. Member States shall notify the rules referred to in paragraph 1 to the Commission and to the permanent internal committee on anti-money-laundering and countering terrorist financing referred to in Article 9a(7) of Regulation (EU) No 1093/2010. Member States shall notify the Commission and that permanent internal committee without undue delay of any subsequent amendments thereto.

4. In accordance with Article 58(4) of Directive (EU) 2015/849, competent authorities shall have all the supervisory and investigatory powers that are necessary for the exercise of their functions. In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely to ensure that those administrative sanctions or measures produce the desired results and to coordinate their action when dealing with cross-border cases.

5. Member States shall ensure that legal persons can be held liable for the breaches referred to in Article 29 committed for their benefit by any person acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

- (a) power to represent the legal person;
- (b) authority to take decisions on behalf of the legal person;
- (c) authority to exercise control within the legal person.

6. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 5 of this Article has made it possible to commit one of the breaches referred to in Article 29 for the benefit of that legal person by a person under its authority.

7. Competent authorities shall exercise their powers to impose administrative sanctions and measures in accordance with this Regulation in any of the following ways:

- (a) directly;
- (b) in collaboration with other authorities;
- (c) under their responsibility by delegation to such other authorities;
- (d) by application to the competent judicial authorities.

In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely in order to ensure that those administrative sanctions or measures produce the desired results and to coordinate their action when dealing with cross-border cases.

Article 29

Specific provisions

Member States shall ensure that their administrative sanctions and measures include at least those laid down in Article 59(2) and (3) of Directive (EU) 2015/849 in the event of the following breaches of this Regulation:

- (a) repeated or systematic failure by a payment service provider to accompany the transfer of funds with the required information on the payer or the payee, in breach of Article 4, 5 or 6, or by a crypto-asset service provider to accompany the transfer of crypto-assets with the required information on the originator and beneficiary, in breach of Article 14 or 15;
- (b) repeated, systematic or serious failure by a payment service provider or crypto-asset service provider to retain records, in breach of Article 26;
- (c) failure by a payment service provider to implement effective risk-based procedures, in breach of Article 8 or 12, or by a crypto-asset service provider to implement effective risk-based procedures, in breach of Article 17;
- (d) serious failure by an intermediary payment service provider to comply with Article 11 or 12 or by an intermediary crypto-asset service provider to comply with Article 19, 20 or 21.

Article 30

Publication of sanctions and measures

In accordance with Article 60(1), (2) and (3) of Directive (EU) 2015/849, the competent authorities shall publish administrative sanctions and measures imposed in the cases referred to in Articles 28 and 29 of this Regulation without undue delay, including information on the type and nature of the breach and the identity of the persons responsible for it, if necessary and proportionate after a case-by-case evaluation.

Article 31

Application of sanctions and measures by competent authorities

1. When determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, the competent authorities shall take into account all relevant circumstances, including those listed in Article 60(4) of Directive (EU) 2015/849.
2. As regards administrative sanctions and measures imposed in accordance with this Regulation, Article 62 of Directive (EU) 2015/849 shall apply.

Article 32

Reporting of breaches

1. Member States shall establish effective mechanisms to encourage the reporting to competent authorities of breaches of this Regulation.

Those mechanisms shall include at least those referred to in Article 61(2) of Directive (EU) 2015/849.

2. Payment service providers and crypto-asset service providers, in cooperation with the competent authorities, shall establish appropriate internal procedures for their employees, or persons in a comparable position, to report breaches internally through a secure, independent, specific and anonymous channel,

proportionate to the nature and size of the payment service provider or the crypto-asset service provider concerned.

Article 33

Monitoring

1. Member States shall require competent authorities to monitor effectively and to take the measures necessary to ensure compliance with this Regulation and encourage, through effective mechanisms, the reporting of breaches of the provisions of this Regulation to competent authorities.
2. By 31 December 2026, and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the application of Chapter VI, with particular regard to cross-border cases.

CHAPTER VII

Implementing powers

Article 34

Committee procedure

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VIII

Derogations

Article 35

Agreements with countries and territories which do not form part of the territory of the Union

1. The Commission may authorise any Member State to conclude an agreement with a third country or with a territory outside the territorial scope of the Treaty on European Union and the Treaty on the Functioning of the European Union (TFEU) as referred to in Article 355 TFEU (the 'country or territory concerned'), which contains derogations from this Regulation, in order to allow transfers of funds between that country or territory and the Member State concerned to be treated as transfers of funds within that Member State.

Such agreements may be authorised only where all of the following conditions are met:

- (a) the country or territory concerned shares a monetary union with the Member State concerned, forms part of the currency area of that Member State or has signed a monetary convention with the Union represented by a Member State;
- (b) payment service providers in the country or territory concerned participate directly or indirectly in payment and settlement systems in that Member State;
- (c) the country or territory concerned requires payment service providers under its jurisdiction to apply the same rules as those established under this Regulation.

2. A Member State wishing to conclude an agreement as referred to in paragraph 1 shall submit a request to the Commission and provide it with all the information necessary for the appraisal of the request.

3. Upon receipt by the Commission of such a request, transfers of funds between that Member State and the country or territory concerned shall be provisionally treated as transfers of funds within that Member State until a decision is reached in accordance with this Article.

4. If, within two months of receipt of the request, the Commission considers that it does not have all the information necessary for the appraisal of the request, it shall contact the Member State concerned and specify the additional information required.

5. Within one month of receipt of all the information that it considers to be necessary for the appraisal of the request, the Commission shall notify the requesting Member State accordingly and shall transmit copies of the request to the other Member States.

6. Within three months of the notification referred to in paragraph 5 of this Article, the Commission shall decide by means of an implementing act in accordance with Article 34(2) whether to authorise the Member State concerned to conclude the agreement that is the subject of the request.

The Commission shall, in any event, adopt a decision as referred to in the first subparagraph of this paragraph within 18 months of receipt of the request.

CHAPTER IX

Other provisions

Article 36

Guidelines

EBA shall issue guidelines addressed to the competent authorities and the payment service providers in accordance with Article 16 of Regulation (EU) No 1093/2010 on measures to be taken in accordance with this Regulation, in particular as regards the implementation of Articles 7, 8, 11 and 12 of this Regulation. By 30 June 2024, EBA shall issue guidelines addressed to the competent authorities and to the crypto-asset service providers on measures to be taken as regards the implementation of Articles 14 to 17 and Articles 19 to 22 of this Regulation.

EBA shall issue guidelines specifying technical aspects of the application of this Regulation to direct debits as well as the measures to be taken by payment initiation service providers, as defined in Article 4, point (18), of Directive (EU) 2015/2366, under this Regulation, taking into account their limited role in payment transactions.

EBA shall issue guidelines, addressed to competent authorities, on the characteristics of a risk-based approach to supervision of crypto-asset service providers and the steps to be taken when conducting such supervision.

EBA shall ensure a regular dialogue with stakeholders on the development of technical interoperable solutions with the view of facilitating the implementation of the requirements laid down in this Regulation.

Article 37

Review

1. By 12 months after the entry into force of a Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, the Commission shall review this Regulation and

shall, if appropriate, propose amendments in order to ensure a consistent approach and alignment with the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

2. By 1 July 2026, the Commission, after consulting EBA, shall issue a report assessing the risks posed by transfers to or from self-hosted addresses or entities not established in the Union, as well as the need for specific measures to mitigate those risks, and propose, if appropriate, amendments to this Regulation.

3. By 30 June 2027, the Commission shall submit to the European Parliament and to the Council a report on the application and enforcement of this Regulation accompanied, if appropriate, by a legislative proposal.

The report referred to in the first subparagraph shall include the following elements:

- (a) an assessment of the effectiveness of the measures provided for in this Regulation and of compliance with this Regulation by payment service providers and crypto-asset service providers;
- (b) an assessment of the technological solutions for complying with the obligations imposed on crypto-asset service providers under this Regulation, including of the latest development of technologically sound and interoperable solutions for complying with this Regulation and of the use of DLT analytic tools for identifying the origin and destination of transfers of crypto-assets and for performing a 'know your transaction' (KYT) assessment;
- (c) an assessment of the effectiveness and suitability of the de minimis thresholds related to transfers of funds, in particular with respect to the scope of application and the set of information accompanying transfers, and an assessment of the need to lower or remove such thresholds;
- (d) assessment of the costs and benefits of introducing de minimis thresholds related to the set of information accompanying transfers of crypto-assets, including an assessment of the related money laundering and terrorist financing risks;
- (e) an analysis of the trends in the use of self-hosted addresses to perform transfers without the involvement of a third party, together with an assessment of the related money laundering and terrorist financing risks and an evaluation of the need, effectiveness and enforceability of additional mitigation measures, such as specific obligations on providers of hardware and software wallets and limitation, control or prohibition of transfers involving self-hosted addresses.

That report shall take into account new developments in the field of anti-money laundering and counter-terrorist financing, as well as relevant evaluations, assessments and reports in that field drawn up by international organisations and standard setters, law enforcement authorities and intelligence agencies, crypto-asset service providers or other reliable sources.

CHAPTER X

Final provisions

Article 38

Amendments to Directive (EU) 2015/849

Directive (EU) 2015/849 is amended as follows:

- (1) in Article 2(1), point (3), points (g) and (h) are deleted;

(2) Article 3 is amended as follows:

(a) in point (2), the following point is added:

'(g) crypto-asset service providers;';

(b) point (8) is replaced by the following:

'(8) 'correspondent relationship' means:

- (a) the provision of banking services by one bank as the correspondent to another bank as the respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;
- (b) the relationships between and among credit institutions and financial institutions, including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers or relationships established for transactions in crypto-assets or transfers of crypto-assets;';

(c) points 18 and 19 are replaced by the following:

'(18) "crypto-asset" means a crypto-asset as defined in Article 3(1), point (5), of Regulation (EU) 2023/1114 of the European Parliament and of the Council (*1), except where falling within the categories listed in Article 2(2), (3) and (4) of that Regulation or otherwise qualifying as funds;

(19) "crypto-asset service provider" means a crypto-asset service provider as defined in Article 3(1), point (15), of Regulation (EU) 2023/1114, where performing one or more crypto-asset services as defined in Article 3(1), point (16), of that Regulation, with the exception of providing advice on crypto-assets as referred to in Article 3(1), point (16)(h), of that Regulation;

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

(d) the following point is added:

'(20) "self-hosted address" means a self-hosted address as defined in Article 3, point (20), of Regulation (EU) 2023/1113 of the European Parliament and of the Council (*2).

(*2) Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.6.2023, p. 1).';"

(3) in Article 18, the following paragraphs are added:

'5. By 30 December 2024, EBA shall issue guidelines on risk variables and risk factors to be taken into account by crypto-asset service providers when entering into business relationships or carrying out transactions in crypto-assets.

6. EBA shall clarify, in particular, how the risk factors listed in Annex III shall be taken into account by crypto-asset service providers including when carrying out transactions with persons and entities which are not covered by this Directive. To that end, EBA shall pay particular attention to products, transactions and technologies that have the potential to facilitate anonymity, such as privacy wallets, mixers or tumblers.

Where situations of higher risk are identified, the guidelines referred to in paragraph 5 shall include enhanced due diligence measures that obliged entities shall consider applying to mitigate such risks, including the adoption of appropriate procedures to detect the origin or destination of crypto-assets.'

(4) the following articles are inserted:

'Article 19a

1. Member States shall require crypto-asset service providers to identify and assess the risk of money laundering and terrorist financing associated with transfers of crypto-assets directed to or originating from a self-hosted address. To that end, crypto-asset service providers shall have in place internal policies, procedures and controls. Member States shall require crypto-asset service providers to apply mitigating measures commensurate with the risks identified. Those mitigating measures shall include one or more of the following:

- (a) taking risk-based measures to identify, and verify the identity of, the originator or beneficiary of a transfer made to or from a self-hosted address or the beneficial owner of such originator or beneficiary, including through reliance on third parties;
- (b) requiring additional information on the origin and destination of the transferred crypto-assets;
- (c) conducting enhanced ongoing monitoring of those transactions;
- (d) any other measure to mitigate and manage the risks of money laundering and terrorist financing as well as the risk of non-implementation and evasion of targeted financial sanctions and proliferation financing-related targeted financial sanctions.

2. By 30 December 2024, EBA shall issue guidelines to specify the measures referred to in this Article, including the criteria and means for identification and verification of the identity of the originator or beneficiary of a transfer made to or from a self-hosted address, in particular through reliance on third parties, taking into account the latest technological developments.

Article 19b

1. By way of derogation from Article 19, with respect to cross-border correspondent relationships involving the execution of crypto-asset services as defined in Article 3(1), point (16), of Regulation (EU) 2023/1114, with the exception of point (h) of that point, with a respondent entity not established in the Union and providing similar services, including transfers of crypto-assets, Member States shall, in addition to the customer due diligence measures laid down in Article 13 of this Directive, require crypto-asset service providers, when entering into a business relationship with such an entity, to:

- (a) determine if the respondent entity is licensed or registered;
- (b) gather sufficient information about the respondent entity to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the entity and the quality of supervision;
- (c) assess the respondent entity's AML/CFT controls;
- (d) obtain approval from senior management before establishing new correspondent relationships;
- (e) document the respective responsibilities of each party to the correspondent relationship;

- (f) with respect to payable-through crypto-asset accounts, be satisfied that the respondent entity has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent entity, and that it is able to provide relevant customer due diligence data to the correspondent entity, upon request.

Where crypto-asset service providers decide to terminate correspondent relationships for reasons relating to anti-money laundering and counter-terrorist financing policy, they shall document and record their decision.

Crypto-asset service providers shall update the due diligence information for the correspondent relationship on a regular basis or when new risks emerge in relation to the respondent entity.

2. Member States shall ensure crypto-asset service providers take into account the information referred to in paragraph 1 in order to determine, on a risk-sensitive basis, the appropriate measures to be taken to mitigate the risks associated with the respondent entity.

3. By 30 June 2024, EBA shall issue guidelines to specify the criteria and elements that crypto-asset service providers shall take into account when conducting the assessment referred to in paragraph 1 and the risk mitigating measures referred to in paragraph 2, including the minimum action to be taken by crypto-asset service providers where the respondent entity is not registered or licensed.'

- (5) the following article is inserted:

'Article 24a

By 1 January 2024, EBA shall issue guidelines specifying how the enhanced customer due diligence measures in this Section apply when obliged entities perform crypto-asset services as defined in Article 3(1), point (16), of Regulation (EU) 2023/1114, with the exception of point (h) of that point, as well as transfers of crypto-assets as defined in Article 3, point (10), of Regulation (EU) 2023/1113. In particular, EBA shall specify how and when those obliged entities shall obtain additional information on the originator and beneficiary.'

- (6) in Article 45, paragraph 9 is replaced by the following:

'9. Member States may require electronic money issuers as defined in Article 2, point (3), of Directive 2009/110/EC, payment service providers as defined in Article 4, point (11), of Directive (EU) 2015/2366 and crypto-asset service providers established on their territory in forms other than a branch, and whose head office is situated in another Member State, to appoint a central contact point in their territory. That central contact point shall ensure, on behalf of the entity operating on a cross-border basis, compliance with AML/CFT rules and shall facilitate supervision by supervisors, including by providing supervisors with documents and information on request.'

- (7) in Article 47, paragraph 1 is replaced by the following:

'1. Member States shall ensure that currency exchange and cheque-cashing offices and trust or company service providers are licensed or registered, and that providers of gambling services are regulated.'

- (8) in Article 67, the following paragraph is added:

'3. Member States shall adopt and publish, by 30 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 2(1), point 3, Article 3, point (2)(g), Article 3, points (8), (18), (19) and (20), Article 19a(1), Article 19b(1) and (2), Article 45(9) and Article 47(1). They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from 30 December 2024.'

Article 39

Repeal

Regulation (EU) 2015/847 is repealed with effect from the date of application of this Regulation.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 40

Entry into force

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

It shall apply from 30 December 2024.

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

Done at Brussels, 31 May 2023.

APPENDIX 2: Commission Delegated Regulation (EU) 2024/1503
of 22 February 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council by specifying the fees charged by the European Banking Authority
to issuers of significant asset-referenced tokens and issuers of significant e-
money tokens

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁸⁶, and in particular Article 137(3) thereof,

Whereas:

- (1) An annual supervisory fee should be established to cover the actual and estimated costs to be incurred by the European Banking Authority (EBA) when performing supervisory tasks in the context of Regulation (EU) 2023/1114, including its overheads. The annual supervisory fee should also cover the costs incurred by competent authorities to whom tasks are delegated by the EBA.
- (2) The crypto-asset market is dynamic and often fast-evolving, therefore the estimate as to the number of issuers likely to fall within the scope of the EBA's supervisory tasks is inherently uncertain. Additionally, the supervisory priorities may change from time to time in light of events. Against this backdrop, it is of the highest importance for the EBA, and the competent authorities to whom tasks may be delegated by the EBA, to have the necessary flexibility to estimate their likely expenditure from year-to-year, including the possibility to reassess the fees to be levied in relation to the EBA's supervisory tasks from one year to another.
- (3) Fees charged for the EBA's activities related to issuers of significant asset referenced tokens (ARTs) and issuers of significant e-money tokens (EMTs) should be set at a level such as to avoid a deficit or a significant accumulation of surplus. Where a significant positive or negative budget result becomes recurrent, the level of the fees should be revised.
- (4) The number of significant ARTs and significant EMTs under the supervision of the EBA will be identified only after the application of Titles III and IV of Regulation (EU) 2023/1114. It is therefore not possible to already determine fixed annual supervisory fees since neither the exact amount of supervision task expenditure nor the exact number of significant ARTs or significant EMTs will be known before the framework is fully established. Moreover, the number of issuers of significant tokens may change from time to time, and thus it is not possible to pre-determine the exact amount of fees in the delegated act.
- (5) In line with the principle of annuality and the principle of full cost recovery, the annual supervisory fees should be calculated on the basis of the estimated direct and indirect costs to be incurred by the EBA to perform its supervisory tasks. The annual supervisory fees should be adjusted every year to match the

⁸⁶ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>

estimated costs. At entity level, the annual supervisory fee should be calculated based on a fully proportionate approach.

- (6) As the costs of the supervision tasks depend on the intensity of the supervision, the fees between issuers of significant ARTs and issuers of significant EMTs are not expected to be fully linear. Therefore, in accordance with the principle of proportionality, an activities-based estimates and monitoring system should be established that allows for the estimated costs to be attributed, respectively, to issuers of significant ARTs and issuers of significant EMTs,

HAS ADOPTED THIS REGULATION:

Article 1

Estimation of the expenditures of the EBA when performing its supervisory duties

1. In each year, the EBA shall estimate the overall annual costs that are expected to be incurred for the performance of its supervisory duties. The amount of the annual overall costs estimated shall be the basis for determining the overall amount of supervisory fees charged.
2. The fees charged to issuers of significant asset referenced tokens (ARTs) and to issuers of significant e-money tokens (EMTs) shall be established in accordance with the principle of full-cost recovery and following an activity-based management model elaborated by the European Banking Authority (EBA).
3. When estimating the annual overall costs, the EBA shall take into account the following direct and indirect costs:
 - (a) the annual estimate of all direct and indirect expenditure necessary for the supervisory tasks performed by the EBA relating to issuers of significant ARTs and issuers of significant EMTs, including staff resources directly involved in the defined tasks and the costs of the horizontal services like operational and administrative support provided to the staff directly involved;
 - (b) the annual estimate of expenditure necessary for the reimbursement of direct and indirect costs incurred by competent authorities to whom the EBA has delegated supervisory tasks in accordance with Article 138(1) of Regulation (EU) 2023/1114 relating to issuers of significant ARTs and issuers of significant EMTs, including staff resources of the competent authorities directly involved in the delegated supervisory tasks and the costs of the horizontal services like operational and administrative support provided to the directly involved staff.
4. The fees charged to issuers of significant ARTs and issuers of significant EMTs shall cover the staff expenditure, infrastructure and operating expenditure as follows:
 - (c) the EBA's expenditure for the execution of its supervisory tasks relating to issuers of significant ARTs and issuers of significant EMTs in accordance with Regulation (EU) 2023/1114 such as:
 - the determination of ARTs and EMTs as significant as referred to in Articles 43 and 56 of Regulation (EU) 2023/1114, including costs incurred in relation to data gathering and analysis, and engagement with the issuer, competent authorities, central banks and other relevant authorities,
 - the classification of ARTs and EMTs as significant based on voluntary basis as referred to in Articles 44 and 57 of Regulation (EU) 2023/1114, including all costs of a kind referred to in the classification process,

- the supervision referred to in Article 117 of Regulation (EU) 2023/1114, including the establishment and functioning of the EBA crypto-asset committee referred to in Article 118 of Regulation (EU) 2023/1114, and the exercise of any powers and competences referred to in Title VII, Chapter 5 of Regulation (EU) 2023/1114,
 - the establishment and functioning of supervisory colleges as referred to in Article 119 of Regulation (EU) 2023/1114, including for significant EMTs issued by credit institutions;
- (a) the reimbursement of competent authorities that have carried out work pursuant to Regulation (EU) 2023/1114 as a result of any delegation of tasks in accordance with Article 138 of Regulation (EU) 2023/1114.

Article 2

Method of calculation of the annual supervisory fee

1. The annual supervisory fee for a given issuer of significant ARTs shall be calculated as follows:
- (a) expenditure relating to the supervision of issuers of significant ARTs and EMTs under Regulation (EU) 2023/1114 as included in the EBA's budget for that year;
- (b) the costs referred to in point (a) assigned to issuers of significant ARTs shall be divided amongst all issuers of significant ARTs as follows:

$$\% \text{ of costs related to significant ART supervision paid by issuer} = \frac{\text{Reserve of significant ART}}{\text{Reserves of all significant ARTs}}$$

- (c) if applicable, expenditure that is directly assigned to individual issuers of significant ARTs will be added to the annual supervisory fee of those issuers of significant ARTs.

2. The annual supervisory fee for a given issuer of significant EMTs shall be calculated as follows:

- (a) staff related and administrative expenditures, costs related to supervisory tasks carried out by competent authorities pursuant to Article 138 of Regulation (EU) 2023/1114, as well as costs related to IT development and maintenance for the EBA supervision assigned, respectively, to issuers of significant ARTs and issuers of significant EMTs;
- (b) the costs referred to in point (a) assigned to issuers of significant EMTs shall then be divided amongst all issuers of significant EMTs as follows:

$$\% \text{ of costs related to significant EMT supervision paid by issuer} = \frac{\text{Size of issuance of significant EMT}}{\text{Size of issuance of all significant EMTs}}$$

- (c) if applicable, expenditure that is directly assigned to individual issuers of significant EMTs will be added to the annual supervisory fee of those issuers of significant EMTs.

3. For the calculation of the size of the reserve of assets of issuers of significant ARTs, the EBA shall use data from the latest available independent audit of the reserve of assets as referred to in Article 36(9) of Regulation (EU) 2023/1114.

4. For the calculation of the size of the issuance of issuers of significant EMTs, the EBA shall use data from the latest available independent audit as referred to in Article 58 of Regulation (EU) 2023/1114.

5. If the reported reserve of assets for significant ARTs or the size of the issuance of significant EMTs are expressed in a currency other than the euro, the EBA shall convert them into an amount in euro using the average euro foreign exchange reference rate applicable to the period during which the values were recorded. For that purpose, the euro foreign exchange reference rate published by the European Central Bank shall be used.

6. By way of derogation from paragraphs 1, 2 and 3, the first-year fee shall be calculated with the following formula by lessening the supervisory fee referred to in paragraphs 1 and 2 with a factor that is equal to the days between the date of transfer of supervision takes effect and the end of the year divided by the total number of days in that year:

$$\text{Coefficient} = \frac{\text{Number of calendar days from the date of transfer of supervision until 31 December}}{\text{Number of calendar days in year (n)}}$$

The supervisory fee of the first year shall be paid after an issuer of significant ARTs or an issuer of significant EMTs has been classified by the EBA as significant, as referred to in Articles 43, 44, 56 or 57 of Regulation (EU) 2023/1114 and within 30 days from the date of issuance of the EBA's relevant invoice.

By way of derogation from the first sub-paragraph, where an issuer of significant ARTs or an issuer of significant EMTs is classified as significant, as referred to in Articles 43, 44, 56 or 57 of Regulation (EU) 2023/1114 during the month of December, it shall not pay a supervisory fee for that calendar year.

Article 3

Adjustment of fees

Annual supervisory fees charged to issuers of significant ARTs and issuers of significant EMTs shall be set at a level such as to cover the full cost of providing the services and to avoid a deficit or a significant accumulation of surplus.

Article 4

Payment of annual supervisory fees

1. The annual supervisory fee shall be paid in full to the EBA not later than 31 March of the calendar year for which it is due.
2. The EBA shall send the invoices to issuers of significant ARTs and issuers of significant EMTs at least 30 days before the payment is due. The annual supervisory fees shall be payable in euro.
3. Any late payments shall incur the default interest laid down in Article 99 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁸⁷.
4. Communications between the EBA and issuers of significant ARTs or issuers of significant EMTs shall take place by electronic means.

⁸⁷ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1046/2022-12-14>).

Article 5

Reimbursement to competent authorities

1. In case of a delegation of tasks by the EBA to competent authorities in accordance with Article 138 of Regulation (EU) 2023/1114, only the EBA shall charge fees to issuers of significant ARTs and issuers of significant EMTs in respect of the costs incurred in relation to the performance of those tasks.
2. The EBA shall reimburse a competent authority for the estimated costs incurred as a result of carrying out tasks pursuant to Regulation (EU) 2023/1114 with an amount which fulfils the following conditions:
 - (a) the amount is agreed by the EBA and the competent authority before the delegation of tasks takes place;
 - (b) the amount is lower than or equal to the total amount of annual supervisory fee paid to the EBA by the relevant issuers of significant ARTs or issuers of significant EMTs.

Article 6

Entry into force

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

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

Done at Brussels, 22 February 2024.

APPENDIX 3: COMMISSION DELEGATED REGULATION (EU) 2024/1504
of 22 February 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council by specifying the procedural rules for the exercise of the power to
impose fines or periodic penalty payments by the European Banking
Authority on issuers of significant asset-referenced tokens and issuers of
significant e-money tokens

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁸⁸, and in particular Article 134(10) thereof,

Whereas:

- (1) In order to give the person subject to investigation of an alleged infringement set out in Annex V or VI to Regulation (EU) 2023/1114 the opportunity to be heard, that person should have the right to make written comments on the statement of findings of the investigation within a reasonable time limit of not less than four weeks before the investigation officer is to submit its findings to the EBA. The person subject to investigation should be allowed to be assisted by a counsel of their choice during the investigation. The investigation officer should consider whether, as a result of the submissions made by the person subject to investigation, it is necessary to amend the statement of findings before submitting it to the EBA.
- (2) The EBA should check the completeness of the file submitted by the investigation officer based on a list of documents. To ensure that the person subject to investigation is able to adequately prepare their defence, before adopting a final decision with regard to fines or supervisory measures, the EBA should provide them with the right to provide further written comments.
- (3) To ensure that a person subject to investigation cooperates, the EBA should be able to take certain coercive measures. When the EBA has taken a decision requiring a person subject to investigation to bring an infringement to an end or has requested them to supply complete information or to submit complete records, data or any other material, or has taken a decision to conduct an on-site inspection, it may impose periodic penalty payments in order to compel that person to comply with the decision taken. Before imposing periodic penalty payments, the EBA should provide the person subject to investigation with the opportunity to provide written submissions.
- (4) As the investigation officer carries out their work independently, the EBA should not be bound by the file the investigation officer has prepared. However, to ensure that the person subject to the investigation is able to adequately prepare their defence, whether the EBA disagrees or, agrees with all or part of the findings of the investigation officer, they should be informed and be given the opportunity to respond.

⁸⁸ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>

- (5) Where the EBA adopts an interim decision pursuant to Article 135(2) of Regulation (EU) 2023/1114, it should give the person subject to investigation the opportunity to be heard as soon as possible after adopting the interim decision and before a confirmatory decision is adopted. The procedure should nonetheless grant the right of the person subject to investigation to be heard in advance when the investigation is conducted by an investigation officer.
- (6) The EBA's power to impose a periodic penalty payment is to be exercised with due regard for the right to defence and is not to be maintained beyond the period necessary. Where the EBA decides to impose a periodic penalty payment, the person concerned should therefore be given the opportunity to be heard and any penalty payment should no longer be due as of the moment the person concerned complies with the decision the EBA has addressed to that person.
- (7) The files prepared by the EBA and the investigation officer contain information that is indispensable to the person concerned in preparing for judicial or administrative proceedings. A person subject to investigation should therefore, after having received the notification of statement of finding either from the investigation officer or from the EBA, be entitled to have access to the file subject to the legitimate interest of other persons in the protection of their business secrets. The use of file documents accessed should only be permitted for judicial or administrative proceedings in relation to infringements of Regulation (EU) 2023/1114.
- (8) Both the power to impose fines and periodic penalty payments and the power to enforce fines and periodic penalty payments should be subject to a limitation period. For reasons of consistency, limitation periods for the imposition and enforcement of fines or periodic penalty payments should take into account existing Union legislation applicable to the imposition and enforcement of penalties on supervised entities and the EBA's experience in applying such legislation.
- (9) To ensure safekeeping of collected fines and periodic penalties, the EBA should deposit them on interest-bearing accounts that are opened exclusively for the purpose of a single fine or periodic penalty payments aiming at ending a single infringement. As a matter of budgetary prudence, the EBA should only transfer the amounts to the Commission once the decisions are final due to the rights to appeal being exhausted or lapsed,

HAS ADOPTED THIS REGULATION:

Article 1

Procedural rules in infringement proceedings before the investigation officer

- 3.** Upon completion of an investigation of an alleged infringement as set out in Annex V or VI to Regulation (EU) 2023/1114 and before submitting the file to the European Banking Authority (EBA) pursuant to Article 134(2) of that Regulation, the investigation officer shall inform the person subject to investigation in writing of its findings and shall provide that person with the opportunity to make written submissions in accordance with Article 134(5) of that Regulation.
- 4.** The statement of findings shall set out the facts liable to constitute one or more of the infringements as set out in Annex V or VI to Regulation (EU) 2023/1114, including an assessment of the nature and seriousness of those infringements, taking into account the criteria set out in Article 130(3) of that Regulation.
- 5.** The statement of findings shall set a reasonable time limit within which the person subject to investigation may make its written submissions. In investigations other than those referred to in Article 4, that time limit shall

be at least four weeks. The investigation officer shall not be obliged to take into account written submissions received after the expiry of that time limit.

6. In its written submissions, the person subject to investigation may set out all the facts known to it which are relevant to its defence, and shall, if possible, attach documents as proof of those facts. The person subject to investigation may propose that the investigation officer hears other persons who may corroborate the facts set out in the submissions of the person subject to investigation. The person subject to investigation may be assisted by a counsel of their choice in the preparation of written submissions.

7. The investigation officer may invite a person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The persons subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.

Article 2

Procedural rules in infringement proceedings before the EBA with regard to fines and supervisory measures

1. The complete file to be submitted by the investigation officer to the EBA shall include the following documents:

- (a) the statement of findings and a copy thereof addressed to the person subject to investigation as well as any amended statement of findings as a result of the submissions made by the person subject to investigation;
- (b) copy of the written submissions by the person subject to investigation;
- (c) the minutes of an oral hearing, if applicable.

2. Where a file is incomplete, the EBA shall make a reasoned request for additional documents to the investigation officer.

3. Where the EBA considers that the facts described in the statement of findings of the investigation officer do not constitute an infringement as set out in Annex V or VI to Regulation (EU) 2023/1114, it shall decide to close the investigation and notify that decision to the person subject to investigation.

4. Where the EBA agrees with all or some of the findings of the investigation officer, it shall inform the person subject to investigation accordingly. Such communication shall set a time limit of at least two weeks in case the EBA agrees with all of the findings, and at least four weeks in case the EBA does not agree with all of the findings, within which period the person subject to investigation may make written submissions. The EBA shall not be obliged to take into account written submissions received after the expiry of that time limit for adopting a decision on an infringement and on supervisory measures and the imposition of a fine in accordance with Articles 130 and 131 of Regulation (EU) 2023/1114.

5. The EBA may invite the person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The person subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.

6. If the EBA decides that one or more of the infringements set out in Annex V or VI to Regulation (EU) 2023/1114 has been committed by a person subject to investigation and has adopted a decision imposing a fine in accordance with Article 131 of that Regulation, it shall immediately notify that decision to the person subject to investigation.

Article 3

Procedural rules in infringement proceedings before the EBA with regard to periodic penalty payments

1. Before adopting a decision imposing a periodic penalty payment pursuant to Article 132 of Regulation (EU) 2023/1114, the EBA shall submit a statement of findings to the person subject to investigation setting out the reasons justifying the imposition of a periodic penalty payment and the amount of the periodic penalty payment per day of non-compliance.

The statement of findings shall set a time limit of at least four weeks within which the person subject to investigation may make written submissions. The EBA shall not be obliged to take into account written submissions received after the expiry of that time limit for deciding on the periodic penalty payment.

2. The EBA may invite the person subject to the proceedings to attend an oral hearing. The person subject to the proceedings may be assisted by a counsel of their choice. Oral hearings shall not be public.

3. A decision by the EBA to impose a periodic penalty payment shall indicate the legal basis and the reasons for the decision, the amount and the starting date of the periodic penalty payment.

4. Once the person subject to the relevant decision referred to in Article 132(1) of Regulation (EU) 2023/1114, has complied with that decision, a periodic penalty payment shall no longer be imposed.

Article 4

Rules of procedure for interim decisions on supervisory measures

1. Where the EBA adopts an interim decision as referred to in Article 135(2) of Regulation (EU) 2023/1114 imposing supervisory measures pursuant to Article 130 of that Regulation, it shall immediately notify that interim decision to the person concerned.

The EBA shall set a time limit of at least four weeks within which the person subject to the interim decision may make written submissions on that decision. The EBA shall not be obliged to take into account written submissions received after the expiry of that time limit.

Upon request, the EBA shall grant access to the file to the person subject to the interim decision. File documents accessed shall be used only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) 2023/1114.

The EBA may invite the person subject to the interim decision to attend an oral hearing. The persons subject to the interim decision may be assisted by a counsel of their choice. Oral hearings shall not be public.

2. The EBA shall take a final decision as soon as possible after the adoption of the interim decision.

Where the EBA considers, after having heard the person subject to the interim decision, that an infringement as set out in Annex V or VI to Regulation (EU) 2023/1114 has been committed by the person subject to the interim decision, it shall adopt a confirmatory decision imposing one or more supervisory measures laid down in Article 130 of Regulation (EU) 2023/1114. The EBA shall immediately notify that decision to the person subject to the interim decision.

3. Where the EBA adopts a final decision that does not confirm the interim decision, the interim decision shall be deemed to be repealed.

*Article 5***Access to the file and use of documents**

1. Upon request, the EBA shall grant access to the file to the person subject to investigation to whom the investigation officer or the EBA has sent a statement of findings. Access shall be granted following the notification of any statement of findings in accordance with Article 134(7) of Regulation (EU) 2023/1114.
2. File documents accessed shall be used by the person referred to in paragraph 1 only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) 2023/1114.

*Article 6***Limitation periods for the imposition of fines and periodic penalty payments**

1. Fines and periodic penalty payments on persons subject to investigation shall be subject to a limitation period of five years.
2. The limitation period referred to in paragraph 1 shall begin on the day following that on which the infringement is committed. In the case of continuing or repeated infringements, that limitation period shall begin on the day on which the infringement ceases.
3. Any action taken by the EBA or by the competent authority acting at the request of the EBA in accordance with Article 138(1) of Regulation (EU) 2023/1114 for the purpose of the investigation in respect of an infringement listed in Annex V or VI to Regulation (EU) 2023/1114 shall interrupt the limitation period for the imposition of fines and periodic penalty payments. That limitation period shall be interrupted with effect from the date on which the action is notified to the person subject to investigation in respect of an infringement listed in Annex V or VI to Regulation (EU) 2023/1114.
4. Any interruption referred to in paragraph 3 shall restart the limitation period. The limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the EBA having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5.
5. The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of the EBA is subject to proceedings pending before the Board of Appeal referred to in Article 60 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁸⁹, or is subject to a review by the Court of Justice of the European Union in accordance with Article 136 of Regulation (EU) 2023/1114.

*Article 7***Limitation periods for the enforcement of penalties**

1. The power of the EBA to enforce decisions taken pursuant to Articles 131 and 132 of Regulation (EU) 2023/1114 shall be subject to a limitation period of five years.

⁸⁹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

2. The limitation period referred to in paragraph 1 shall be calculated from the day following that on which the decision becomes final.
3. The limitation period for the enforcement of penalties shall be interrupted by any action of EBA, or of a competent authority acting at the request of the EBA, in accordance with Article 138 of Regulation (EU) 2023/1114, designed to enforce payment or payment terms and conditions of the fine or periodic penalty payment.
4. Each interruption referred to in paragraph 3 shall restart the limitation period.
5. The limitation period for the enforcement of penalties shall be suspended for so long as:
 - (a) time to pay is allowed;
 - (b) enforcement of payment is suspended pursuant to a pending decision of the EBA Board of Appeal in accordance with Article 60 of Regulation (EU) No 1093/2010, and a review by the Court of Justice of the European Union in accordance with Article 136 of Regulation (EU) 2023/1114.

Article 8

Collection of fines and periodic penalty payments

1. The amounts of fines and periodic penalty payments collected by the EBA shall be lodged to an interest-bearing account opened by the EBA until they become final. In the case of multiple fines and periodic penalty payments collected by the EBA in parallel, the EBA shall ensure that they are lodged to different accounts or subaccounts. Fines and periodic penalty payments paid shall not be entered into the EBA's budget or recorded as budgetary amounts.
2. Once the EBA has established that the fines or periodic penalty payments have become final following the exhaustion of all appeal rights, the EBA shall transfer those amounts and potential interest accruing to the Commission. Those amounts shall then be entered in the general budget of the Union.
3. The EBA shall report on a regular basis to the Commission on the amounts of fines and periodic penalty payments imposed and their status.

Article 9

Entry into force

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

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

Done at Brussels, 22 February 2024.

APPENDIX 4: COMMISSION DELEGATED REGULATION (EU) 2024/1506
of 22 February 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council by specifying certain criteria for classifying asset-referenced
tokens and e-money tokens as significant

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁹⁰, and in particular Article 43(11) thereof,

Whereas:

- (1) Pursuant to Article 56(1) of Regulation (EU) 2023/1114, the criteria set out in Article 43(1) of that Regulation for classifying asset-referenced tokens as significant asset-referenced tokens are to apply also for classification of e-money tokens as significant e-money tokens. Therefore, it is necessary to further specify the criteria referred to in Article 43(1), points (e) and (f), of Regulation (EU) 2023/1114 also in relation to e-money tokens.
- (2) To enable the European Banking Authority (EBA) to determine whether the activities of the issuer of the asset-referenced token or e-money token are significant on an international scale outside the Union, and whether asset-referenced tokens or e-money tokens or their issuers are to be considered to be interconnected with the financial system, it is necessary to distinguish between core and ancillary indicators for such determination. Core indicators should capture the most relevant elements of significant asset-referenced tokens or e-money tokens. Ancillary indicators should be assessed where the assessment of the core indicators by the EBA does not enable the EBA to determine conclusively that the criteria referred to in Article 43(1), points (e) and (f), of Regulation (EU) 2023/1114 have been fulfilled. The outcome of the significance assessment should be subject to a holistic assessment of both types of indicators.
- (3) As regards the assessment of the criterion of significance of the activities of the issuer on an international scale outside the Union, including the use of the asset-referenced token or e-money token for payments and remittances, as referred to in Article 43(1), point (e), of Regulation (EU) 2023/1114, the EBA should use core indicators relating to cross-border activities between the Union and third countries, the size of the token concerned, and the issuer's activities at global level.
- (4) Cross-border transactions, in particular those that are associated to uses as a means of exchange, are the transactions with the international dimension that are most likely to pose risks to financial stability, monetary policy transmission and monetary sovereignty of the Union. Those transactions also reflect the international activity of an issuer of an asset-referenced token or e-money token on international scale outside the Union in relation to their uses for payments and remittances. Therefore, the EBA should consider the indicators of the significance of the market share of value of cross-border transactions in an asset-referenced token or e-money token into and from the Union and the significance of the estimated

⁹⁰ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

market share of value of such transactions that are associated to uses of such tokens as a means of exchange. The indicator of the significance of the market share of value of cross-border transactions in an asset-referenced token or e-money token should be further divided in two separate sub-indicators relating to inflow transactions and outflow transactions, since the effects of each type of transaction on financial stability and monetary sovereignty can be different.

- (5) To capture the non-cross border aspect of significance of an issuer's activities on international scale, the EBA should also consider the core indicators on the global market capitalisation of an asset-referenced token or an e-money token, and on the global market capitalisation of all asset-referenced tokens and e-money tokens issued by the issuer. The market capitalisation on an international scale of a token should be understood to include the same token issued outside the Union to distinguish that capitalisation from the market capitalisation referred to in Article 43(1), point (b), of Regulation (EU) 2023/1114.
- (6) As regards the assessment of the criterion of significance of the interconnectedness of asset-referenced tokens or e-money tokens or their issuers with the financial system, as referred to in Article 43(1), point (f), of Regulation (EU) 2023/1114, the indicators should capture direct and indirect interconnectedness of the tokens and their issuers with the financial system. Both a direct and an indirect interconnectedness could result in contagion effects in both directions, that is from issuers of asset-referenced tokens and e-money tokens to traditional financial system and vice versa. For that purpose, it is necessary to set out the core indicators of the significance of the share of non-deposit reserve assets that are financial instruments issued by financial institutions, and of the significance of the share of the issuer's asset holdings relative to the total supply of specific financial instruments. In addition, the following ancillary indicators should be set out: the ownership structure of the issuer of an asset-referenced token or an e-money token, the concentration of custody of the issuer's reserve assets, and portfolio overlap of the issuer's reserve assets with the reserve assets of issuers of other asset-referenced tokens and e-money tokens.
- (7) Assessing the significance of the share of non-deposit reserve assets that are financial instruments issued by financial institutions is key when assessing the issuer's interconnectedness with the financial system. That core indicator should measure direct interconnections with the financial sector via the issuer's reserve of assets. Distress in financial institutions the financial instruments of which are included in the reserve assets could affect the value of the reserve assets that back the token holders' claims on the issuer to redeem the token. When assessing that indicator, the EBA should consider the sub-indicators of the share of non-deposit reserve assets that are financial instruments, of the share of non-deposit reserve assets that are derivatives in case of asset-referenced tokens, or of the share of covered bonds in case of e-money tokens. The share of non-deposit reserve assets that are derivatives and the share of covered bonds are necessary as sub-indicators since, on the one hand, counterparties of derivatives might be credit institutions and therefore a margin call on them could have significant effects on the financial system, and, on the other hand, a fire sale of covered bonds by the issuer could negatively impact the liquidity of credit institutions.
- (8) The core indicator on the significance of the share of asset-referenced tokens or e-money tokens issuer's asset holdings relative to the total supply of the specific financial instruments, including units of an undertaking for collective investment in transferable securities and sovereign bonds, should capture indirect interconnections between, on the one hand, issuers of asset-referenced tokens and e-money tokens and, on the other hand, the financial system. Such indirect connections could affect the traditional financial system, in particular where the issuer of an asset-referenced token or an e-money token is forced to fire sell its asset holdings because of financial distress. That sell-off could drive down the value of those assets and affect financial institutions indirectly via a decrease of the value of the assets those financial institutions hold.
- (9) Issuers of asset-referenced tokens or e-money tokens can also be interconnected with the financial system through the ownership structure. That ancillary indicator should provide a complete view of the potential

effects that financial distress could have in the financial system, not only from a purely financial stability risk perspective, but also in connection to reputational risks. Financial distress or critical events in the issuer of an asset-referenced token or e-money token could, via their link to the issuer through the ownership structure, have a significant effect in institutions that run other financial activities. When assessing that indicator, the EBA should focus on whether the issuer has a dispersed or concentrated ownership, whether natural or legal persons with qualifying holdings are financial institutions, and the complexity of the ownership structure.

- (10) An additional channel of interconnectedness between, on the one hand, the issuer of an asset-referenced token or e-money token, and, on the other hand, the financial system, can arise via the concentration of reserve assets in a small number of financial institutions. The higher the diversification of an issuer's reserve assets, the lower the potential contagion effects and financial stability risks of the issuer. Thus, allocating reserve assets in a low number of financial institutions or in a highly concentrated degree is an indication of higher interconnectedness with the financial system. Because of the specific relevance of interconnectedness that may arise from the concentration of deposits in credit institutions, it is appropriate to set two sub-indicators under the ancillary indicator of concentration of issuer's reserve assets in financial institutions. One sub-indicator should capture concentration of reserve assets in financial institutions, and another sub-indicator should cover only deposits in credit institutions.
- (11) It is necessary to capture the contagion mechanisms that could arise from cases where there are different issuers of asset-referenced tokens or e-money tokens holding similar assets. Such situation could have as a result that financial distress and the resulting sell-off in one issuer could have negative effects on other issuers. An ancillary indicator of a portfolio overlap of the issuer's reserve assets with the reserve assets of other issuers should therefore be set out,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'financial institution' means any of the following:
- (a) a credit institution;
 - (b) an investment firm;
 - (c) an electronic money institution;
 - (d) a payment institution;
 - (e) a UCITS management company;
 - (f) an alternative investment fund manager;

- (g) an insurance undertaking as defined in Article 13, point (1), of Directive 2009/138/EC of the European Parliament and of the Council⁹¹;
- (h) a reinsurance undertaking as defined in Article 13, point (4), of Directive 2009/138/EC;
- (i) an institution for occupational retirement provision as defined in Article 6, point (1), of Directive (EU) 2016/2341 of the European Parliament and of the Council⁹²;
- (2) 'relevant period' means the period referred to in Article 43(2), point (a), of Regulation (EU) 2023/1114, or the period referred to in Article 43(2), point (b), of that Regulation.

Article 2

Indicators for assessing significance on international scale

1. When assessing whether the criterion set out in Article 43(1), point (e), of Regulation (EU) 2023/1114 is fulfilled, the EBA shall assess all of the following core indicators:
 - (a) the significance of the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union and from the Union;
 - (b) the significance of the estimated market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union and from the Union that are associated to uses as a means of exchange;
 - (c) the degree of market capitalisation on an international scale of an asset-referenced token or an e-money token on the last calendar day of the relevant period;
 - (d) the degree of market capitalisation on an international scale of all asset-referenced tokens and e-money tokens issued by the issuer or issuers concerned on the last calendar day of the relevant period.
2. For the purposes of paragraph 1, point (a), the EBA shall consider all of the following sub-indicators:
 - (a) the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union (inflow transactions);
 - (b) the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens from the Union (outflow transactions).

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in accordance with the following formula:

the total aggregate value of transactions of which the payer is outside the Union and the payee is inside the Union in a given asset-referenced token or e-money token during the relevant period

⁹¹ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: <http://data.europa.eu/eli/dir/2009/138/oj>).

⁹² Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37, ELI: <http://data.europa.eu/eli/dir/2016/2341/oj>).

the total aggregate value of transactions of which the payer is outside the Union and the payee is inside the Union in all asset-referenced tokens and e-money tokens during the relevant period

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in accordance with the following formula:

the total aggregate value of transactions of which the payer is within the Union and the payee is outside the Union in a given asset-referenced token or e-money token during the relevant period

the total aggregate value of transactions of which the payer is within the Union and the payee is outside the Union in all asset-referenced tokens and e-money tokens during the relevant period

3. The EBA shall calculate the estimated market share referred to in paragraph 1, point (b), in accordance with the following formula:

the estimated total aggregate value of cross-border transactions in a given asset-referenced token or e-money token into the Union and from the Union that are associated to its uses as a means of exchange during the relevant period

the estimated total aggregate value of cross-border transactions in all asset-referenced tokens and e-money tokens into the Union and from the Union that are associated to their uses as a means of exchange during the relevant period)

Article 3

Indicators for assessing interconnectedness with the financial system

1. When assessing whether the criterion set out in Article 43(1), point (f), of Regulation (EU) 2023/1114 is fulfilled, the EBA shall assess all of the following core indicators:

- (a) the significance of the share of non-deposit reserve assets of an asset-referenced token or an e-money token that are financial instruments issued by financial institutions;
- (b) the significance of the share of the issuer's asset holdings relative to the total supply of specific financial instruments.

2. For the purposes of paragraph 1, point (a), the EBA shall consider the following sub-indicators:

- (a) the share of non-deposit reserve assets of an asset-referenced token or an e-money token that are financial instruments issued by financial institutions;
- (b) in case of asset-referenced tokens, share of non-deposit reserve assets of an asset-referenced token that are derivatives; or
- (c) in case of e-money tokens, share of non-deposit reserve assets of an e-money token that are covered bonds.

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of financial instruments issued by financial institutions that are part of the reserve of assets of the asset-referenced token or e-money token

(the total value of the reserve of assets of the asset-referenced token or e-money token)-(the total value of deposits in the reserve of assets of the asset-referenced token or e-money token)

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of derivatives that are part of the reserve of assets of the asset-referenced token

(the total value of the reserve of assets of the asset-referenced token)-(the total value of deposits in the reserve of assets of the asset-referenced token)

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (c), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of covered bonds issued by credit institutions that are part of the reserve of assets of the e-money token

(the total value of the reserve of assets of the e-money token)-(the total value of deposits in the reserve of assets of the e-money token)

3. The EBA shall calculate the share of the issuer's asset holdings referred to in paragraph 1, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of holdings of the issuer of an asset-referenced token or an e-money token of a type of a financial instrument

the total supply of that type of the financial instrument

4. Where the assessment of the core indicators referred to in paragraph 1 does not lead to a conclusive determination with regard to the interconnectedness criterion set out in of Article 43(1), point (f), of Regulation (EU) 2023/1114, the EBA shall assess all of the following ancillary indicators:

- (a) the ownership structure of the issuer of an asset-referenced token or an e-money token;
- (b) the degree of concentration of the reserve assets of the issuer of an asset-referenced token or an e-money token in financial institutions;
- (c) the degree of portfolio overlap of reserve assets of the issuer of an asset-referenced token or an e-money token with the reserve assets of other issuers of asset-referenced tokens and e-money tokens.

5. For the purposes of paragraph 4, point (a), the EBA shall consider all of the following:

- (a) whether the issuer has a dispersed or concentrated ownership structure;

(b) whether a natural or legal person with a qualifying holding is a financial institution;

(c) the complexity of the ownership structure.

6. For the purposes of paragraph 4, point (b), the EBA shall consider all of the following sub-indicators:

(a) the concentration of the reserve assets of the issuer of an asset-referenced token or an e-money token in financial institutions;

(b) the concentration of deposits held in credit institutions by the issuer of an asset-referenced token or an e-money token.

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\text{Concentration} = s_1^2 + s_2^2 + s_3^2 + \dots + s_n^2$$

where s_n = the share of reserve assets held in financial institutions n (expressed as a whole number).

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\text{Concentration} = c_1^2 + c_2^2 + c_3^2 + \dots + c_n^2$$

where c_n = the share of deposits held in credit institutions n (expressed as a whole number).

7. The EBA shall calculate the ancillary indicator referred to in paragraph 4, point (c), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of the reserve assets of an asset-referenced token or an e-money token that are also held in the reserve of assets of other issuers of asset-referenced tokens or e-money tokens

the total value of the reserve assets of the asset-referenced token or an e-money token

Article 4

Entry into force

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

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

Done at Brussels, 22 February 2024.

APPENDIX 5: COMMISSION DELEGATED REGULATION (EU) 2024/1507

of 22 February 2024

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying the criteria and factors to be taken into account by the European Securities Markets Authority, the European Banking Authority and competent authorities in relation to their intervention powers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁹³, and in particular Article 103(8), Article 104(8) and Article 105(7) thereof,

Whereas:

- (1) A list of criteria and factors to be taken into account by competent authorities, ESMA and the EBA in determining when there is a significant investor concern or threat to the orderly functioning and integrity of markets in crypto- assets or to the stability of the whole or part of the financial system of the Union or of at least one Member State should be established to ensure a consistent approach while permitting appropriate action to be taken where unforeseen adverse events or developments occur. The competent authorities, ESMA and the EBA should identify the criteria and factors that are relevant for a specific case, and then perform an assessment of those criteria and factors determined to be most relevant to that case. That should not prevent the competent authorities, ESMA and the EBA from using a temporary intervention power where only one of the factors or criteria leads to such a concern or threat.
- (2) The provisions in this Regulation are closely linked, since they deal with the product intervention powers vested in the competent authorities, ESMA and the EBA. To ensure coherence between those provisions that should enter into force at the same time, and in order to facilitate a comprehensive view of the criteria for stakeholders and, in particular, for ESMA, the EBA and competent authorities exercising the intervention powers, it is necessary to include these provisions in a single Delegated Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Criteria and factors for the purposes of ESMA temporary intervention powers

ESMA shall take into account the following factors and criteria for the purpose of determining whether there is a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system in the Union:

- (a) the degree of complexity of the crypto-asset other than an asset-referenced token or e-money token or the type of activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens

⁹³ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

in relation to the type of client, as assessed in accordance with point (c), involved in the activity or practice, or to whom the crypto-asset other than an asset-referenced token or e-money token is marketed or sold, taking into account, in particular, the following:

- (i) the degree of transparency of costs and charges associated with the crypto-asset other than an asset-referenced token or e-money token, the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens and, in particular, the lack of transparency resulting from multiple layers of costs and charges;
 - (ii) the nature and scale of any risks;
 - (iii) whether the crypto-asset other than an asset-referenced token or e-money token or service is bundled with other products or services;
 - (iv) the complexity of any terms and conditions;
- (b) the size of potential detrimental effects, considering the following:
- (i) the number of clients, token holders or market participants involved;
 - (ii) the relative share of the product in investors' portfolios;
 - (iii) the probability, scale and nature of any detriment, including the amount of loss potentially suffered;
 - (iv) the anticipated duration of the detrimental consequences;
 - (v) the volume of the issuance;
 - (vi) the number of intermediaries involved;
 - (vii) the growth of the market or sales;
 - (viii) the average amount invested by each client in the crypto-asset other than an asset-referenced token or e-money token;
- (c) the type of clients involved in an activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens or to whom a crypto-asset other than an asset-referenced token or e-money token is marketed or sold, considering the following:
- (i) whether the client is a retail holder or a qualified investor;
 - (ii) clients' skills and abilities, including the level of education, experience with similar crypto-assets other than asset-referenced tokens or e-money tokens or selling practices;
 - (iii) clients' economic situation, including their income and wealth;
 - (iv) clients' core financial objectives, including pension saving and home ownership financing;
- (d) the degree of transparency of the crypto-asset other than an asset-referenced token or e-money token or the type of activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens, considering the following:
- (i) any hidden costs and charges;

- (ii) the use of techniques drawing clients' attention but not necessarily reflecting the suitability or overall quality of the product or service;
 - (iii) the nature of risks and transparency of risks;
 - (iv) the use of product names or terminology or other information by implying a greater level of security or return than those which are actually possible or likely, or which imply product features that do not exist;
 - (v) the use of unfair, unclear or misleading information in communications;
- (e) the particular features or components of the crypto-asset other than an asset-referenced token or e-money token or the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens;
- (f) the existence and degree of disparity between the expected return or profit for investors and the risk of loss in relation to the crypto-asset other than an asset-referenced token or e-money token or the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens, taking into account, in particular, the following:
 - (i) the structuring costs of such crypto-assets other than asset-referenced tokens or e-money tokens, activity or practice and other costs;
 - (ii) the disparity in relation to the issuer's risk retained by the issuer; or
 - (iii) the risk/return profile or risk/benefit profile;
- (g) the ease and cost with which investors are able to sell the relevant crypto-asset other than an asset-referenced token or e-money token or switch to another crypto-asset or product, taking into account, in particular, the following:
 - (i) the bid or ask spread;
 - (ii) the frequency of trading availability;
 - (iii) the issuance size and size of the secondary market;
 - (iv) the presence or absence of liquidity providers or secondary market makers;
 - (v) the features of the trading system;
 - (vi) any other barriers to exit;
- (h) the pricing and associated costs of the crypto-asset other than an asset-referenced token or e-money token or the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens, taking into account, in particular, either of the following:
 - (i) the use of hidden or secondary charges;
 - (ii) charges that do not reflect the level of service provided;
- (i) the selling practices associated with the crypto-asset other than an asset-referenced token or e-money token, taking into account, in particular, the following:

- (i) the communication and distribution channels used;
 - (ii) the information, marketing or other promotional material associated with the investment;
 - (iii) the assumed investment purposes;
 - (iv) whether the decision to buy is secondary or tertiary following an earlier purchase;
- (j) the financial and business situation of the issuer or of a service provider of a crypto-asset other than an asset-referenced token or e-money token, taking into account, in particular, either of the following:
- (i) the financial situation of the issuer or of the provider of services related to a crypto-asset other than an asset-referenced token or e-money token;
 - (ii) the transparency of business situation of the issuer or of the provider of services related to a crypto-asset other than an asset-referenced token or e-money token;
- (k) whether there is insufficient or unreliable information about a crypto-asset other than an asset-referenced token or e-money token, provided either by the issuer or the offeror or service provider, to enable market participants at whom it is targeted to make an informed decision, taking into account the nature and type of the crypto-asset other than an asset-referenced token or e-money token;
- (l) whether the crypto-asset other than an asset-referenced token or e-money token or the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens poses a high risk to the performance of transactions entered into by participants or investors in the relevant market;
- (m) whether the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens would significantly compromise the integrity of the price formation process in the market concerned, such that the price or value of the crypto-asset other than an asset-referenced token or e-money token in question is no longer determined according to legitimate market forces of supply and demand, or such that market participants are no longer able to rely on the prices formed in that market or in the volumes of trading as a basis for their investment decisions;
- (n) whether the characteristics of a crypto-asset other than an asset-referenced token or e-money token make it particularly susceptible to being used for the purposes of financial crime and, in particular whether those characteristics could potentially encourage the use of the crypto-asset other than an asset-referenced token or e-money token for the following:
- (i) any fraud or dishonesty;
 - (ii) misconduct in, or misuse of information in relation to a financial market;
 - (iii) handling the proceeds of crime;
 - (iv) the financing of terrorism; or
 - (v) facilitating money laundering;
- (o) whether the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens poses a particularly high risk to the resilience or smooth operation of markets and their infrastructure;

- (p) whether the crypto-asset other than an asset-referenced token or e-money token or the activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens poses a high risk of disruption to financial institutions deemed to be important to the financial system of the Union;
- (q) the relevance of the distribution of the crypto-asset other than an asset-referenced token or e-money token as a funding source for the issuer;
- (r) whether a crypto-asset other than an asset-referenced token or e-money token or an activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens poses risks to the market or its underlying infrastructure, including DLT networks used for their issuance, storage and transfer;
- (s) whether a crypto-asset other than an asset-referenced token or e-money token or an activity or practice related to crypto-assets other than asset-referenced tokens or e-money tokens could threaten investors' confidence in the financial system.

Article 2

Criteria and factors for the purposes of the EBA temporary intervention powers

The EBA shall take into account the following factors and criteria to determine whether there is a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system in the Union:

- (a) the degree of complexity of the asset-referenced token or e-money token or the type of activity or practice related to asset-referenced tokens or e-money tokens in relation to the type of clients, as assessed in accordance with point (c), involved in the activity, or practice, taking into account, in particular, the following:
 - (i) the degree of transparency of costs and charges associated with the asset-referenced token or e-money token, the activity or practice related to asset-referenced tokens or e-money tokens and, in particular, the lack of transparency resulting from multiple layers of costs and charges;
 - (ii) the nature and scale of any risks;
 - (iii) the size and the composition of the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114;
 - (iv) whether the asset-referenced token or e-money token or service is bundled with other products or linked to different services;
 - (v) the complexity of any terms and conditions;
- (b) the size of potential detrimental effects, considering, in particular, the following:
 - (i) the reference value of the asset-referenced token or e-money token;
 - (ii) the number of clients, token holders or market participants involved;
 - (iii) the relative share of the asset-referenced token or e-money token in investors' portfolios;
 - (iv) the probability, scale and nature of any detriment, including the amount of loss potentially suffered;
 - (v) the anticipated duration of the detrimental consequences;

- (vi) the volume of the issuance;
 - (vii) the number of intermediaries involved;
 - (viii) the growth of the market or sales;
 - (ix) the average amount invested by each client in the asset-referenced token or e-money token;
- (c) the type of clients involved in an activity or practice related to asset-referenced tokens or e-money tokens or to whom an asset-referenced token or e-money token is marketed or sold, taking into account, in particular, the following:
- (i) whether the client is a retail holder or a qualified investor;
 - (ii) clients' skills and abilities, including the level of education, experience with similar products or selling practices;
 - (iii) clients' economic situation, including their income and wealth;
 - (iv) clients' core financial objectives, including pension saving and home ownership financing;
- (d) the degree of transparency of the asset-referenced token or e-money token or the type of activity or practice related to asset-referenced tokens or e-money tokens, taking into account, in particular, the following:
- (i) any hidden costs and charges;
 - (ii) the use of techniques drawing clients' attention but not necessarily reflecting the suitability or overall quality of the product or service;
 - (iii) the nature of risks and transparency of risks;
 - (iv) the use of product names or terminology or other information that is misleading by implying a greater level of security or return than those which are actually possible or likely, or which imply product features that do not exist;
 - (v) the use of unfair, unclear or misleading information in communications;
- (e) the particular features or components of the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens;
- (f) the existence and degree of disparity between the expected return or profit for investors and the risk of loss in relation to the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens, taking into account, in particular, the following:
- (i) the structuring costs of such asset-referenced tokens, e-money tokens, activity or practice and other costs;
 - (ii) the disparity in relation to the issuer's risk retained by the issuer;
 - (iii) the risk/return profile or risk/benefit profile;

- (g) the costs and ease with which investors are able to sell the relevant asset-referenced token or e-money token or switch to another asset-referenced token or e-money token, taking into account, in particular, the following:
 - (i) the degree of liquidity in the market for the asset-referenced token or e-money token;
 - (ii) the frequency of trading availability;
 - (iii) the issuance size and size of the secondary market;
 - (iv) the presence or absence of liquidity providers or secondary market makers;
 - (v) the features of the trading system;
 - (vi) any other barriers to exit;
- (h) pricing and associated costs of the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens, taking into account, in particular, either of the following:
 - (i) the use of hidden or secondary charges;
 - (ii) charges that do not reflect the level of service provided;
- (i) the selling practices associated with the asset-referenced token or e-money token, taking into account, in particular, the following:
 - (i) the communication and distribution channels used;
 - (ii) the information, marketing or other promotional material associated with the investment;
 - (iii) the assumed investment purposes;
 - (iv) whether the decision to buy is a secondary or tertiary following an earlier purchase;
- (j) the financial and business situation of the issuer or of the provider of services of an asset-referenced token or e-money token, taking into account, in particular, either of the following:
 - (i) the financial situation of the issuer or of the provider of services related to the asset-referenced token or e-money token;
 - (ii) the transparency of the business situation of the issuer or of the provider of services related to the asset-referenced token or e-money token;
- (k) whether there is insufficient or unreliable information about an asset-referenced token or e-money token, provided either by the issuer or the offeror or service provider, to enable market participants at whom it is targeted to make an informed decision, taking into account the nature and type of the asset-referenced token or e-money token;
- (l) whether the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens poses a high risk to the performance of transactions entered into by participants or investors in the relevant market;

- (m) whether the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens would leave the Union economy vulnerable to risks;
- (n) whether the characteristics of an asset-referenced token or e-money token make it particularly susceptible to being used for the purposes of financial crime and, in particular whether those characteristics could potentially encourage the use of asset-referenced tokens or e-money tokens for the following:
 - (i) any fraud or dishonesty;
 - (ii) misconduct in, or misuse of information, in relation to a financial market;
 - (iii) handling the proceeds of crime;
 - (iv) the financing of terrorism;
 - (v) facilitating money laundering;
- (o) whether the activity or practice related to asset-referenced tokens or e-money tokens poses a particularly high risk to the resilience or smooth operation of markets, the payment system and their infrastructures;
- (p) whether the asset-referenced token or e-money token or the activity or practice related to asset-referenced tokens or e-money tokens poses a high risk of disruption to financial institutions deemed to be important to the financial system of the Union;
- (q) the relevance of the distribution of the asset-referenced token or e-money token as a funding source for the issuer;
- (r) whether an asset-referenced token or e-money token or an activity or practice related to asset-referenced tokens or e-money tokens poses risks to the market or payment systems infrastructure;
- (s) whether an asset-referenced token or an activity or practice related to asset-referenced tokens or e-money tokens could threaten investors' confidence in the financial system.

Article 3

Criteria and factors for the purpose of intervention by competent authorities

Competent authorities shall take into account the following factors and criteria to determine whether there is a significant investor protection concern or a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system within at least one Member State:

- (a) the degree of complexity of the crypto-asset or the type of activity or practice related to crypto-assets in relation to the type of clients, as assessed in accordance with point (c), involved in the activity or practice, or to whom the crypto-asset is marketed or sold, taking into account, in particular, the following:
 - (i) the degree of transparency of costs and charges associated with the crypto-asset, the activity or practice related to crypto-assets, and, in particular, the lack of transparency resulting from multiple layers of costs and charges;
 - (ii) the nature and scale of any risks;
 - (iii) the size and robustness of the reserve of assets as further specified by the regulatory technical standards issued pursuant to Article 36(4) of Regulation (EU) 2023/1114;

- (iv) whether the crypto-asset or service is bundled with other products or services;
 - (v) the complexity of any terms and conditions;
- (b) the size of potential detrimental consequences, considering in particular, the following:
 - (i) the notional value of the crypto-asset;
 - (ii) the number of clients, token holders or market participants involved;
 - (iii) the relative share of the product in investors' portfolios;
 - (iv) the probability, scale and nature of any detriment, including the amount of loss potentially suffered;
 - (v) the anticipated duration of the detrimental consequences;
 - (vi) the volume of the issuance;
 - (vii) the number of intermediaries involved;
 - (viii) the growth of the market or sales;
 - (ix) the average amount invested by each client in the crypto-asset;
- (c) the type of clients involved in an activity or practice related to crypto-assets or to whom a crypto-asset is marketed or sold, taking into account, in particular, the following:
 - (i) whether the client is a retail holder or a qualified investor;
 - (ii) clients' skills and abilities, including the level of education, experience with similar crypto-assets or selling practices;
 - (iii) clients' economic situation, including their income and wealth;
 - (iv) clients' core financial objectives, including pension saving and home ownership financing;
- (d) the degree of transparency of the crypto-asset or the type of activity or practice related to crypto-assets, taking into account, in particular, the following:
 - (i) any hidden costs and charges;
 - (ii) the use of techniques drawing clients' attention but not necessarily reflecting the suitability or overall quality of the product or service;
 - (iii) the nature of risks and transparency of risks;
 - (iv) the use of product names or terminology or other information that is misleading by implying a greater level of security or return than those which are actually possible or likely, or which imply product features that do not exist;
 - (v) the use of unfair, unclear or misleading information in communications;
- (e) the particular features or components of the crypto-asset or the activity or practice related to crypto-assets;

- (f) the existence and degree of disparity between the expected return or profit for investors and the risk of loss in relation to the crypto-asset or the activity or practise related to crypto-assets, taking into account, in particular, the following:
 - (i) the structuring costs of such crypto-assets, activity or practice and other costs;
 - (ii) the disparity in relation to the issuer's risk retained by the issuer;
 - (iii) the risk/return profile or risk or benefit profile;
- (g) the costs and ease with which investors are able to sell the relevant crypto-asset or switch to another crypto-asset, taking into account, in particular, the following:
 - (i) the bid or ask spread;
 - (ii) the degree of liquidity in the market for crypto-assets;
 - (iii) the frequency of trading availability;
 - (iv) the issuance size and size of the secondary market;
 - (v) the presence or absence of liquidity providers or secondary market makers;
 - (vi) the features of the trading system;
 - (vii) any other barriers to exit;
- (h) the pricing and associated costs of the crypto-asset or the activity or practice related to crypto-assets, taking into account, in particular, either of the following:
 - (i) the use of hidden or secondary charges;
 - (ii) charges that do not reflect the level of service provided;
- (i) the selling practices associated with the crypto-asset, taking into account, in particular, the following:
 - (i) the communication and distribution channels used;
 - (ii) the information, marketing or other promotional material associated with the investment;
 - (iii) the assumed investment purposes;
 - (iv) whether the decision to buy is secondary or tertiary following an earlier purchase;
- (j) the financial and business situation of the issuer or the service provider of a crypto-asset, taking into account, in particular, either of the following:
 - (i) the financial situation of the issuer or the service provider of a crypto-asset;
 - (ii) the transparency of the business situation of the issuer or the service provider of a crypto-asset;

- (k) whether there is insufficient or unreliable information about a crypto-asset, provided either by the issuer or the offeror or service provider, to enable market participants at whom it is targeted to make an informed decision, taking into account the nature and type of the crypto-asset;
- (l) whether the crypto-asset or the activity or practice related to crypto-assets poses a high risk to the performance of transactions entered into by participants or investors in the relevant market;
- (m) whether the activity or practice related to crypto-assets would significantly compromise the integrity of the price formation process in the market concerned such that the price or value of the crypto-asset in question is no longer determined according to legitimate market forces of supply and demand, or such that market participants are no longer able to rely on the prices formed in that market or in the volumes of trading as a basis for their investment decisions;
- (n) whether the crypto-asset or the activity or practice related to crypto-assets would leave the national economy vulnerable to risks;
- (o) whether the characteristics of a crypto-asset make it particularly susceptible to being used for the purposes of financial crime and, in particular whether the characteristics could potentially encourage the use of the crypto-asset for the following:
 - (i) any fraud or dishonesty;
 - (ii) misconduct in, or misuse of information, in relation to a financial market;
 - (iii) handling the proceeds of crime;
 - (iv) the financing of terrorism;
 - (v) facilitating money laundering;
- (p) whether a crypto-asset or the activity or practice related to crypto-assets poses a particularly high risk to the resilience or smooth operation of markets and their infrastructure;
- (q) whether the crypto-asset or the activity or practice related to crypto-assets poses a high risk of disruption to financial institutions deemed to be important to the financial system of the Member State of the relevant competent authority;
- (r) the relevance of the distribution of the crypto-asset as a funding source for the issuer;
- (s) whether a crypto-asset or an activity or practice related to crypto-assets poses risks to the market or payment systems infrastructure, including trading, clearing and settlement systems;
- (t) whether a crypto-asset or an activity or practice related to crypto-assets could threaten investors' confidence in the financial system.

Article 4

Entry into force

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

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

Done at Brussels, 22 February 2024.

APPENDIX 6: COMMISSION DELEGATED REGULATION (EU) 2025/292
of 26 September 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards establishing a
template document for cooperation arrangements between competent
authorities and supervisory authorities of third countries

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁹⁴, and in particular Article 107(3), third subparagraph, thereof,

Whereas:

- (1) Article 107(1) of Regulation (EU) 2023/1114 requires the competent authorities of Member States to conclude, where necessary, cooperation arrangements with supervisory authorities of third countries concerning the exchange of information and the enforcement of obligations arising under that Regulation in third countries.
- (2) In concluding new cooperation arrangements and updating existing cooperation arrangements with third-country authorities, the competent authorities should, where possible, use the template document set out in this Regulation.
- (3) Any transfer of personal data to supervisory authorities of third countries should be undertaken in full compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁹⁵. Appropriate safeguards for the exchange of personal data between competent authorities of Member States and supervisory authorities of third countries may be provided for, among other things, by administrative arrangements referred to in Article 46(3), point (b), of Regulation (EU) 2016/679, which include enforceable and effective data subject rights.
- (4) This Regulation is based on the draft regulatory technical standards developed by the European Securities and Markets Authority (ESMA), in close cooperation with the European Banking Authority and submitted to the Commission.
- (5) ESMA has not conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, nor has it analysed the potential related costs and benefits of introducing such standards, as to have done so would have been disproportionate in relation to the scope and impact of those standards, taking into account the fact that the addressees of the standards would only be the competent authorities of the Member States and not market participants.

⁹⁴ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

⁹⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

- (6) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁹⁶.
- (7) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council⁹⁷ and delivered an opinion on 27 May 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Cooperation arrangements

The template document to be used by competent authorities of Member States, where possible for cooperation arrangements pursuant to Article 107(1) of Regulation (EU) 2023/1114 is set out in the Annex to this Regulation.

Article 2

Transfers of personal data

Where competent authorities rely on an administrative arrangement pursuant to Article 46(3), point (b), of Regulation (EU) 2016/679 for the transfer of personal data to supervisory authorities of third countries, that arrangement shall be annexed to the cooperation arrangement entered into in accordance with Article 107(1) of Regulation (EU) 2023/1114.

Article 3

Entry into force

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

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

Done at Brussels, 26 September 2024.

⁹⁶ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

⁹⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

ANNEX

Template document for cooperation arrangements concerning the exchange of information between competent authorities of Member States and supervisory authorities of third countries and the enforcement of obligations arising under Regulation (EU) 2023/1114 in third countries

1. Introduction

Description of each signatory authority's legal basis for the exchange of information in order for them to carry out their duties in accordance with their laws and regulations relating to markets in crypto-assets.

Declaration that pursuant to the laws and regulations that constitute the legal basis for exchange of information, the signatory authorities are to provide each other with reciprocal mutual assistance in accordance with the cooperation arrangements.

Declaration that the provisions of the cooperation arrangements are not intended to create legally binding obligations or supersede domestic law.

2. Definitions

An appropriate list of definitions covering the terms used in the cooperation arrangements.

3. Type of assistance to be provided

Description of the type of assistance to be provided in accordance with Article 94 of Regulation (EU) 2023/1114 such as:

- (a) obtaining information held in the files of the requested authority;
- (b) obtaining statements or information from any person;
- (c) obtaining documents from persons or entities including through the performance of on-site inspections;
- (d) obtaining data traffic records, insofar as permitted by national law and, where applicable, with the assistance of the appropriate judicial authority depending on the implementation of Article 94(3), point (e), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country;
- (e) obtaining or assisting in obtaining the freezing or sequestration of assets in accordance with Article 94(3), point (f), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country;
- (f) obtaining or assisting in obtaining the temporary cessation of any practice or conduct that is considered contrary to the laws and regulations relating to markets in crypto-assets in accordance with Article 94(1), point (v), of Regulation (EU) 2023/1114 or any equivalent power under the laws of the relevant third country.

4. General provisions – denial of assistance

A list of cases in which cooperation requests may be denied by competent authorities shall include:

- (a) the request is not made in compliance with the cooperation arrangements;
- (b) the request would require the requested authority to act in a manner that would violate domestic law;

- (c) communication of the relevant information could adversely affect the security of the jurisdiction addressed, in particular the fight against terrorism or other serious crimes;
- (d) complying with the request could adversely affect the own investigation, such as criminal investigation, by the requested authority or its enforcement activities;
- (e) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the relevant authorities of the jurisdiction addressed;
- (f) a final judgment has already been delivered in relation to the same persons for the same actions in the jurisdiction addressed, unless the requesting authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the requesting authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the requested authority.

Assistance shall not be denied on the ground that the type of conduct under investigation is not a violation of the laws and regulations relating to markets in crypto-assets of the jurisdiction of the requested authority.

5. Sending and processing requests for assistance

Description of the procedure for sending and processing requests for assistance.

6. Permissible uses of information

Description of the rules on the permissible use of the information in accordance with Article 107(5) of Regulation (EU) 2023/1114 and that the information provided shall be intended for the performance of the tasks of the requesting authority to ensure compliance with and enforce the laws and regulations relating to markets in crypto-assets. The information exchanged shall be used solely for the purposes set forth in the request for assistance.

If a requesting authority intends to use the information provided under the cooperation arrangements for any purpose other than that stated in this section, it shall obtain the prior consent of the requested authority.

7. Processing of personal data

Indication that the processing of personal data shall be undertaken in full compliance with Regulation (EU) 2016/679.

8. Confidentiality restrictions

Description of the rules on confidentiality of any information disclosed, received, exchanged or transmitted. The description shall include the following:

- (a) all information exchanged between the signatory authorities under the cooperation arrangements that concerns business or operational conditions or other economic or personal affairs shall be considered to be confidential and shall be subject to the requirements of professional secrecy, except where the requested authority states, at the time of transmission of information, that the information may be disclosed, or where such disclosure is necessary for legal proceedings;
- (b) the obligation of professional secrecy applies to all natural and legal persons who work or who have worked for the signatory authorities. Information covered by professional secrecy may not be disclosed to any other natural or legal person or authority except by virtue of provisions laid down by Union or national law, or by virtue of provisions laid down in the laws of the relevant third country at least equivalent to such provisions.

The information exchanged shall not be disclosed to any other authority or entity except with the prior agreement of the signatory authority which provided it.

9. General provisions – identification of a contact point

To facilitate cooperation under the arrangements, designation of contact points by the signatory authorities.

10. General provisions – revision clause

Periodical review by the signatory authorities of the functioning and effectiveness of the cooperation arrangements with a view to expanding or altering the scope or operation of the arrangements, where necessary.

11. Other provisions – Miscellaneous

Appendix 7: COMMISSION DELEGATED REGULATION (EU) 2025/293
of 30 September 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
requirements, templates and procedures for the handling of complaints
relating to asset referenced tokens

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (1), and in particular Article 31(5), third subparagraph, thereof,

Whereas:

- (1) In the interest of consumer protection, and in accordance with Article 31 of Regulation (EU) 2023/1114, issuers of asset-referenced tokens, and, where applicable, the third-party entities as referred to in Article 34(5), first subparagraph, point (h), of that Regulation, should provide holders of asset-referenced tokens and other interested parties with information on the complaints handling procedures. Furthermore, those issuers and third-party entities should make available to them a harmonised template in the languages that those issuers and third-party entities use to market their services or in the languages that they use to communicate with the holder of asset-referenced tokens.
- (2) In order to ensure transparency for complainants and enable them to effectively access and use complaint procedures, such information should include that their complaints are filed and handled free of charge, in the languages used by the issuers of asset-referenced tokens and, where applicable, the third-party entities, to market their services, or in the languages they use to communicate with the holder of asset-referenced tokens, and in the official languages of the home Member State and host Member States, that are also official languages of the Union.
- (3) In order to avoid diverging complaints-handling procedures among issuers of asset-referenced tokens and third-party entities, complainants should be able to file their complaints using a harmonised template in the complaints-handling procedures with those issuers, and, where applicable, the third-party entities, irrespective of where those issuers or third-party entities are established or where the token was distributed within the Union. However, even if the complainant files the complaint in a format other than the template, the issuer, and the third party entity, should still handle the complaint and not reject it for that reason.
- (4) To ensure effective and transparent procedures for the prompt, fair and consistent handling of complaints by holders of asset-referenced tokens and other interested parties, the issuer of asset-referenced tokens, and where applicable, third-party entities, should acknowledge receipt of a complaint clearly mentioning the date of its receipt and, where an electronic complaint form is filed, provide the complainant with a copy of the complaint. Furthermore, the issuer of asset-referenced tokens should assess whether the complaint is admissible and contains all relevant information necessary for the complaints investigation and promptly

request from the holders of asset-referenced tokens and other interested parties any additional information needed for the prompt and effective investigation and handling of the complaint.

- (5) In order to ensure equal treatment in the Union, it should be specified what would constitute a 'reasonable period' for an issuer of asset-referenced tokens to communicate the outcome of its investigations. The issuer should keep the complainant informed about the progress of the complaints-handling procedure and provide a response without undue delay and in any event within the time limits set at national level to address complaints filed by complainants, where applicable. The issuer should assess all complaints, identifying shortcomings that may be recurring.
- (6) In accordance with the data minimisation principle, only personal data that is necessary for handling the complaint, should be requested.
- (7) This Regulation is based on the draft regulatory technical standards, developed in close cooperation with the European Securities and Markets Authority, submitted to the Commission by the European Banking Authority.
- (8) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the European Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council (2).
- (9) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council (3) and delivered an opinion on 21 June 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Handling of complaints and complaints management policy and function

- 1. Issuers of asset-referenced tokens and, where applicable, third-party entities shall establish and maintain procedures for handling of complaints, where a complaint is:
 - (a) a statement of dissatisfaction addressed to them by a natural or legal person or any other interested party, including consumer associations that represent holders of asset-referenced tokens, relating to the issuance, the offer or seeking admission to trading of asset-referenced tokens under Regulation (EU) 2023/1114;
 - (b) submitted by a 'complainant', which is a natural or legal person or any other interested party, including consumer associations that represent holders of asset-referenced tokens and where that person, or any other interested party, purports to be eligible to submit a complaint to an issuer of asset-referenced tokens or a third-party entity that have been distributing, totally or partially, asset-referenced tokens.
- 2. Issuers of asset-referenced tokens shall establish and maintain complaints-handling procedures that include all of the following:
 - (a) a 'complaints management policy', which shall be:
 - (i) defined and endorsed by the issuer of asset-referenced tokens' senior management, that shall also be responsible for the implementation of that policy and for monitoring compliance with it;
 - (ii) set out in a written document available in electronic or paper format;

- (iii) made available to all relevant staff of the issuer of asset-referenced tokens through an adequate internal channel.
- (b) a 'complaints management function', which shall:
 - (i) enable complaints to be investigated fairly;
 - (ii) identify and mitigate possible conflicts of interest.

Article 2

Provision of information to the holder of asset-referenced tokens and other interested parties

1. Issuers of asset-referenced tokens shall provide, on request or when acknowledging receipt of a complaint, clear, accurate and up-to-date written information about the complaints-handling procedure to the complainant. The information provided by the issuer shall include the following:
 - (a) the conditions for the admissibility of complaints as referred to in Article 5(1), point (a);
 - (b) details of the procedure to file a complaint, including the type of information to be provided by the complainant and the identity and contact details of the person or department to which the complaint is directed;
 - (c) the procedure that will be followed when handling a complaint including when the receipt of the complaint will be acknowledged, indicative handling timelines and the availability of a competent authority, an ombudsman or alternative dispute resolution mechanisms;
 - (d) information that complaints are filed and handled free of charge with the issuers or, where applicable, with the third-party entities;
 - (e) a mention of the issuer's obligation to keep the complainant informed about the further handling of the complaint.
2. Issuers of asset-referenced tokens shall publish an up-to-date description of the complaints-handling procedure as well as the template for filing complaints set out in the Annex, in an easily accessible manner, including via brochures, pamphlets, contractual documents or via their website.

Article 3

Templates and recording

Issuers of asset-referenced tokens shall:

- (a) develop and make available to holders of asset-referenced tokens and other interested parties, including consumer associations that represent holders of asset-referenced tokens, a template for filing complaints as set out in the Annex;
- (b) ensure that holders of asset-referenced tokens and any other interested parties are able to:
 - (i) submit complaints by electronic means or in paper form;
 - (ii) file complaints free of charge;

- (c) acknowledge receipt of a complaint clearly mentioning the date of its receipt and, where an electronic complaint form is filed, provide the complainant with a copy of that complaint;
- (d) record, internally, complaints and measures taken in response thereto in an appropriate manner, such as through a secure electronic register, and for a reasonable period of time and in any event no longer than permitted under national timing requirements, where applicable;
- (e) accept and handle a complaint even if the complainant files the complaint in a format other than the template set out in the Annex;
- (f) provide the complainant with a privacy notice to accompany the template provided in the Annex to this Regulation, in accordance with Articles 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the Council (4).

Article 4

Languages

Issuers of asset-referenced tokens and, where applicable, third-party entities shall:

- (a) publish the description of the complaints-handling procedure and the template set out in the Annex in the languages they use to market their services or in the languages they use to communicate with the holder of asset-referenced tokens;
- (b) ensure that complainants are able to file complaints in:
 - (i) the languages those issuers and third-party entities use to market their services or in the languages they use to communicate with the holder of asset-referenced tokens;
 - (ii) the official languages of the home Member State and the host Member States, that are also official languages of the Union.

Article 5

Procedure to investigate complaints and communicate the outcome of the investigations to complainants

1. Issuers of asset-referenced tokens shall:
 - (a) upon receipt of a complaint, without undue delay, assess whether the complaint is clear and complete and, in particular, assess whether the complaint contains all relevant information and evidence and inform the complainant about whether the complaint fulfils the conditions of admissibility, which shall be fair, reasonable and shall not unduly restrict the rights of natural or legal persons to file a complaint;
 - (b) where they conclude that a complaint is unclear or incomplete, promptly request from the complainant any additional information or evidence necessary for the proper handling of the complaint;
 - (c) where a complaint does not fulfil the conditions of admissibility, provide the complainant with a clear explanation of the reasons for rejecting the complaint as inadmissible;
 - (d) seek to gather and investigate all relevant information and evidence regarding a complaint;

- (e) where they are not competent in relation to the subject matter contained in the complaint, inform the complainant thereof and give the contact details of the entity responsible for handling the complaint, where known;
 - (f) keep the complainant duly informed about any additional steps taken to handle the complaint and reply to information requests made by the complainant without undue delay.
2. Issuers of asset-referenced tokens shall analyse, on an on-going basis, complaints handling data to identify and address any recurring or systemic problems, and potential legal and operational risks. In particular, issuers of asset-referenced tokens shall:
- (a) analyse the causes of individual complaints so as to identify root causes common to different types of complaints;
 - (b) consider whether such root causes may also affect other processes or products, including those not directly complained about;
 - (c) address such root causes.
3. Issuers of asset-referenced tokens shall communicate to the complainants the outcome of the investigations on filed complaints:
- (a) in plain language that is easy to understand for complainants;
 - (b) by providing a response without undue delay and in any event within the time limits set at national level to address complaints filed by complainants, where applicable; and
 - (c) by including a thorough explanation of their position on the complaint where the final decision does not fully satisfy the complainant's demand (or any final decision, where national law requires it), and by setting out the complainant's option to maintain the complaint, including the availability of an ombudsman, alternative dispute resolution mechanisms, and national competent authorities.

For the purposes of point (b), where an answer cannot be provided within the expected time limits, issuers of asset referenced token shall inform the complainant about the causes of the delay indicating when their investigation is likely to be completed.

For the purposes of point (c), such decision shall be provided in writing.

Article 6

Specific provisions for complaints handling involving third-party entities

1. Where the tokens have been distributed, totally or partially, through third-party entities, issuers of asset-referenced tokens shall ensure that:
- (a) the third-party entities notify them in a timely manner of any complaints received regarding the distribution of such tokens and transfer them to the issuer of asset-referenced tokens that shall assess such complaints;
 - (b) they notify the third-party entities distributing such tokens in a timely manner of any complaints received by the issuer of asset-referenced tokens regarding the distribution of those tokens.
2. The third-party entities shall:

- (a) allow complainants to:
 - (i) submit complaints by electronic means or in paper form;
 - (ii) file complaints free of charge;
- (b) acknowledge receipt of a complaint regarding the distribution of such tokens clearly mentioning the date of its receipt and, where an electronic complaint form is filed, provide the complainant with a copy of the complaint;
- (c) provide the contact details of issuers of asset-referenced tokens to the complainant, to allow the complainant to have the option to file complaints directly with issuers of asset-referenced tokens;
- (d) develop and make available to holders of asset-referenced tokens the same template for filing complaints as the issuer of asset-referenced tokens, using the template set out in the Annex;
- (e) record internally, in an appropriate manner through a secure electronic register, all complaints received and any measures taken in response thereto for a reasonable period of time and in any event no longer than permitted under national timing requirements, where applicable;
- (f) provide the complainant with a privacy notice to accompany the template set out in the Annex to this Regulation, in accordance with Articles 13 and 14 of Regulation (EU) 2016/679.

Article 7

Entry into force

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

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

Done at Brussels, 30 September 2024.

ANNEX

Template that issuers of asset-referenced tokens and, where applicable third-party entities, shall make available to holders of asset-referenced tokens the submission of complaints

SUBMISSION OF A COMPLAINT

1.a. Information about the complainant

LAST NAME/LEGAL ENTITY NAME	FIRST NAME	REGISTRATION NUMBER	LEGAL ENTITY IDENTIFIER (IF AVAILABLE)	CUSTOMER REFERENCE (IF AVAILABLE)

ADDRESS: STREET, NUMBER, FLOOR (In case of legal entity, address of registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE	EMAIL ADDRESS

1.b. Contact details (if different from 1.a)

LAST NAME/LEGAL ENTITY NAME	FIRST NAME

ADDRESS: STREET, NUMBER, FLOOR (In case of legal entity, address of registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE		EMAIL ADDRESS	

2.a. Information about the legal representative (if applicable) (a power of attorney or other official document as proof of the appointment of the representative)

LAST NAME/LEGAL ENTITY NAME	FIRST NAME	REGISTRATION NUMBER	LEGAL ENTITY IDENTIFIER (IF AVAILABLE)

ADDRESS: STREET, NUMBER, FLOOR (In case of legal entity, address of registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE		EMAIL ADDRESS	

2.b. Contact details (if different from 2.a)

LAST NAME/LEGAL ENTITY NAME	FIRST NAME

ADDRESS: STREET, NUMBER, FLOOR (In case of legal entity, address of registered office)	POSTCODE	CITY	COUNTRY

TELEPHONE		EMAIL ADDRESS	

3. Information about the complaint

3.a. Full reference of the issuance, offer or seeking of admission to trading of an asset-referenced tokens or agreement to which the complaint relates (i.e. name of the issuers of asset-referenced tokens, Asset-Referenced Tokens reference number, or other references of the relevant transactions...)

3.b. Description of the complaint's subject-matter

Please provide any documentation supporting the facts mentioned.

3.c. Date(s) of the facts that have led to the complaint

3.d. Description of damage, loss or detriment caused (where relevant)

3.e. Other comments or relevant information (where relevant)

In ... (*place*), on... (*date*)

Signature:

COMPLAINANT/LEGAL REPRESENTATIVE

Documentation provided (*please check the appropriate box*):

Power of attorney or other relevant document	
Copy of the contractual documents of the investments to which the complaint relates	

Other documents supporting the complaint:	

APPENDIX 8: COMMISSION DELEGATED REGULATION (EU) 2025/294
of 1 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
requirements, templates and procedures for the handling of complaints by
the crypto-asset service providers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937⁹⁸, and in particular Article 71(5), third subparagraph, thereof,

Whereas:

- (1) In the interests of protection of clients, crypto-asset service providers should provide their clients with easy access on their website to both a clear, understandable and up-to-date description of their complaints-handling procedure and the standard template set out in the Annex in the languages used by the crypto-assets service provider to market its services or in the languages they use to communicate with clients.
- (2) It is necessary to ensure that clients can file their complaints in the languages used by the crypto-assets service provider to market its services or communicate with clients, as well as in the official languages of the home Member State and host Member States, that are also official languages of the Union.
- (3) To avoid diverging complaints handling procedures among crypto-asset service providers across the Union, clients should be able to file their complaints using a harmonised template. However, to ensure maximum flexibility for clients to file their complaints, where clients have not filed their complaints using that template, that alone should not constitute a reason for the rejection of complaints.
- (4) To ensure a prompt and timely handling of complaints, crypto-asset service providers should acknowledge receipt of complaints and inform the complainant as to whether that complaint is admissible without undue delay. Upon acknowledgment of receipt of the complaint, the complainant should also receive the contact details of the person or department to be contacted for any queries related to the complaint, as well as an indicative timeframe within which a decision on the complaint can be expected. Where a complaint has been found to be inadmissible, the crypto-asset service provider should inform the complainant of its decision and provide the complainant with the reasons for the inadmissibility.
- (5) To ensure a prompt, timely and fair investigation of complaints, crypto-asset service providers should, upon receipt of a complaint, assess whether that complaint is clear, complete and contains all information necessary for handling it. Where appropriate, crypto-asset service providers should request additional information without undue delay. Crypto-asset services providers should gather and investigate all relevant

⁹⁸ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

information regarding the complaint. Complainants should be kept duly informed about the complaints handling process.

- (6) To ensure a fair and effective handling of complaints, it is necessary that decisions on complaints address all points raised by the complainant in his or her complaint. Moreover, to ensure compliance with the equality principle, complaints presenting similar circumstances should result in consistent decisions, unless the crypto-asset service provider is able to provide an objective justification for any possible deviation from a previously taken decision.
- (7) To ensure a prompt handling of complaints, crypto-asset service providers should communicate decisions on complaints to the complainant without undue delay within the timeframe determined by the crypto asset service provider in the complaints-handling procedure. This timeframe should not exceed 2 months from the date the complaint was received by the crypto-asset service provider. Only in exceptional circumstances where the crypto-asset service provider is not able to meet that timeframe, the complainant should be informed of the reasons for the delay and of the expected date by which a decision will be delivered.
- (8) In order to ensure efficient interactions between crypto-asset service providers and complainants, crypto-asset service providers should communicate with complainants in clear and plain language that is easily understandable. For the same reason, crypto-asset service providers should communicate in writing by electronic means or, upon the complainant's request, in paper form.
- (9) In order to achieve procedural and substantive consistency of complaints handling, crypto-asset service providers should analyse complaints-handling data on a continuous basis, including, inter alia, the average processing time, per year (on a rolling basis), for each step of the complaints handling procedure. Such analysis should enable crypto-asset service providers to detect promptly inefficiencies, inconsistencies or deviations from the relevant policies and procedures for the handling of complaints by the crypto-asset service provider. The results of the analysis should enable the crypto-asset service provider to enhance its overall complaints handling processes.
- (10) To ensure that the complaints handling procedures are effective and meet their objective of a prompt, fair and consistent handling of complaints received from clients, it is of paramount importance to ensure that the relevant persons in charge of applying such procedures within the crypto-asset service provider are well aware and appropriately trained with regard to such procedures. Such communication and training should also contribute to effective policies and procedures and to ensure compliance with the requirement to employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them, in accordance with Article 68(4) and (5) of Regulation (EU) 2023/1114. The training should be proportionate to the efficient handling of complaints and should not result in an excessive burden for crypto-asset service providers.
- (11) To ensure that complaints are investigated fairly and effectively, adequate resources should be dedicated by the crypto-asset service provider to their management. Such resources should also ensure that complaints are handled without conflicts of interests. In accordance with Article 68(6) of Regulation (EU) 2023/1114, the management body of the crypto-asset service provider should assess and periodically review the effectiveness of policy arrangements and procedures put in place to comply with Chapters 2 and 3 of Title V of the same Regulation. As a requirement concerning the complaint handling policies and procedures and in order to ensure compliance with Article 68(6) of Regulation (EU) 2023/1114, crypto-asset service providers' management body should endorse and subsequently monitor the implementation of the complaints-handling policies and procedures.

- (12) Any processing of personal data under this Regulation should be carried out in accordance with applicable Union law on the protection of personal data. This Regulation is without prejudice to the rights and obligations under Regulation (EU) 2016/679 of the European Parliament and of the Council⁹⁹. This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA'), developed in close cooperation with the European Banking Authority.
- (13) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁰⁰. The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁰¹ and delivered an opinion on 21 June 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Information, template and description of complaints-handling procedures

1. For the purposes of this Regulation, 'complaint' means a statement of dissatisfaction addressed to a crypto-asset service provider by one of its clients relating to the provision of one or more crypto-asset services.
2. The complaints-handling procedures referred to in Article 71(1) of Regulation (EU) 2023/1114 shall include all the following:
 - (a) the conditions for the admissibility of complaints;
 - (b) information that complaints are filed and handled free of charge;
 - (c) a detailed description of how to file complaints, including:
 - (i) information that complaints may be filed using the template set out in the Annex;
 - (ii) information to be provided by the complainant;
 - (iii) the identity and contact details of the person or department that complaints must be addressed to;
 - (iv) the electronic platform, system, email or postal address where complaints must be filed;

⁹⁹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

¹⁰⁰ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

¹⁰¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

- (v) the language or languages in which a client is allowed to file a complaint pursuant to Article 3;
 - (d) description of the complaints-handling procedure, as specified in Articles 3 to 6;
 - (e) the timeframe applied by the crypto asset service provider to the complaint-handling procedure, including acknowledging receipt of the complaint in accordance with Article 4, requesting additional information, where appropriate, investigating a complaint and communicating the decision on the complaint;
 - (f) a short description of the arrangements for registering and keeping records of complaints and of measures taken in response thereto through a secure electronic system.
3. Crypto-asset service providers shall publish on their website an up-to-date description of the procedures for complaints-handling, as well as the standard template set out in the Annex, and ensure that both that description and that template are easily accessible on their website and on any other relevant digital device that may be used by clients to access the crypto-asset services. In addition, crypto asset service providers shall provide such description upon clients' request and at the time of acknowledging receipt of complaints.
4. The description of the complaints handling procedure and the standard template set out in the Annex shall be published in all languages used by the crypto-assets service provider to market its services or communicate with clients.
5. The crypto-asset service provider shall adequately document the procedures for complaints handling and shall communicate such procedures to all its staff in relevant posts, through an adequate internal channel and provide appropriate training to that staff.
6. The crypto-asset service provider shall ensure that the procedures for complaints-handling are laid down and endorsed by its management body, which shall also be responsible for monitoring their proper implementation. The crypto-asset service provider shall ensure that the procedures for complaints handling are defined and endorsed by its management body, which shall also be responsible for monitoring their proper implementation.
7. The crypto-asset service provider shall ensure that the conditions a complaint shall meet to be considered admissible and complete are fair, reasonable and do not unduly restrict the rights of natural or legal persons to file a complaint. Such conditions shall not include the mandatory use of the template provided in the Annex to this Regulation.

Article 2

Resources dedicated to complaints-handling

1. Crypto-asset service providers shall dedicate adequate resources to the management of complaints.
2. The dedicated resources referred to in paragraph 1 shall have access to all relevant information.
3. The person in charge of the dedicated resources referred to in paragraph 1 shall report directly to the management body on the implementation and effectiveness of the complaints handling procedures, including the data referred to in Article 8, and on any measures taken or to be taken in response thereto.

Article 3

Means and language for filing complaints

1. Crypto-asset service providers shall ensure that clients are able to file complaints by electronic means or in paper form.
2. Crypto-asset service providers shall ensure that clients are able to file complaints in:
 - (a) the languages used by the crypto-assets service provider to market its services or communicate with clients;
 - (b) the official languages of the home Member State and host Member States that are also official languages of the Union.

Article 4

Acknowledgment of receipt of a complaint and verification of its admissibility

1. Crypto-asset service providers shall acknowledge receipt of a complaint and inform the complainant about whether the complaint is admissible without undue delay after having received the complaint.
2. Where a complaint does not fulfil the conditions of admissibility referred to in Article 1(2), point (a), crypto-asset service providers shall provide the complainant with a clear explanation of the reasons for rejecting the complaint as inadmissible.
3. The acknowledgment of receipt of a complaint shall contain all of the following:
 - (a) The name, identity and contact details, including email address and telephone number, of the person to whom, or the department to which, complainants can address any query related to their complaint;
 - (b) the date of receipt of the complaint;
 - (c) a reference to the timeframe referred to in Article 1(2), point (e);
 - (d) where an electronic complaint form is filed, a copy of the complaint.

Article 5

Investigation of complaints

1. Upon receipt of an admissible complaint, crypto-asset service providers shall, without undue delay after acknowledging receipt of the complaint, assess whether the complaint is clear and complete. In particular, crypto-asset service providers shall assess whether the complaint contains all information required. Where a crypto-asset service provider concludes that a complaint is unclear or incomplete, it shall request any additional information necessary for the proper handling of the complaint.
2. Crypto-asset service providers shall seek to gather and examine all relevant information regarding a complaint. Crypto-asset service providers shall not require from the complainant information that is already in their possession or that is legally required to be in their possession. Crypto-asset service providers shall keep the complainant duly informed about any additional steps taken to handle the complaint. Crypto-asset service providers shall reply to reasonable information requests made by the complainant without any undue delay.

Article 6

Decisions

1. In its decision on a complaint, the crypto-asset service provider shall address all points raised in the complaint and shall state the reasons for the outcome of the investigation. That decision shall be consistent with any previous decision taken by the crypto-asset service provider in respect of similar complaints, unless the crypto-asset service provider is able to justify why a different conclusion is drawn.
2. Crypto-asset service providers shall communicate their decision on a complaint to the complainant without undue delay as soon as possible within the timeframe referred to in Article 1(2), point (e), and in any case within 2 months from the date the crypto-asset service provider has received the complaint.
3. Where, in exceptional situations, the decision on a complaint cannot be provided within the timeframe referred to in of Article 1(2), point (e) or within the 2 months of the date the complaint is received, crypto-asset service providers shall inform the complainant without undue delay about the reasons for that delay and specify the date of the decision.
4. Where the decision of the crypto-asset service provider does not satisfy the complainant's demand or only partly satisfies it, the crypto-asset service provider shall clearly set out the reasoning of its decision and contain information on available remedies.

Article 7

Communication with complainants

1. When handling complaints, crypto-asset service providers shall communicate with complainants in a clear and plain language that is easy for complainants to understand.
2. Any communication made by the crypto-asset service provider under Articles 4, 5 and 6 that is addressed to a complainant shall be made in the language in which the complainant filed its complaint provided that the language used by the complainant is one of the languages referred to in Article 3(2). The communication shall be made in writing by electronic means, or upon the complainant's request, in paper form.

Article 8

Procedures to ensure consistent complaints-handling

Crypto-asset service providers shall analyse on a continuous basis complaints-handling data. Such data shall include all of the following:

- (a) the average processing time, for the relevant period under consideration, for each step of the complaints handling procedure, including acknowledgement, investigation, response time;
- (b) the number of complaints received, for the relevant period under consideration, and for each step of the complaints handling procedure, the number of complaints where the crypto asset service provider did not comply with the maximum time limits set out in its complaints handling procedure;
- (c) the categories of the topics to which complaints relate;
- (d) outcomes of investigations.

Article 9

Entry into force

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

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

Done at Brussels, 1 October 2024.

ANNEX

TEMPLATE FOR THE FILING OF COMPLAINTS

FILING OF A COMPLAINT

(to be sent by the client to the crypto-asset service provider)

1.a. Information about the complainant

Last name/Legal entity name:

...

First name:

...

EUID or if not available national Registration or ID number:

...

Legal Entity Identifier (if available):

...

Client reference (if available):

...

Address (street, number, floor) (for legal entities, registered office):

...

Postcode:

...

City:

...

Country:

...

Telephone:

...

Email address:

...

1.b. Contact details (if different from 1.a)

Last name/Legal entity name:

...

First name:

...

Address (street, number, floor) (for legal entities, registered office):

...

Postcode:

...

City:

...

Country:

...

Telephone:

...

Email address:

...

2.a. Information about the legal representative (if applicable) (a power of attorney or other official document as proof of the appointment of the representative to be provided as an attachment to this form)

Last name/Legal entity name:

...

First name:

...

Registration number and LEI (if available):

...

Address (street, number, floor) (For legal entities, registered office)

...

Postcode:

...

City:

...

Country:

...

Telephone:

...

Email address:

...

2.b. Contact details (if different from 2.a)

Last name/Legal entity name:

...

First name:

...

Address: street, number, floor (For firms registered office)

...

Postcode:

...

City:

...

Country:

...

Telephone:

...

Email:

...

3. Information about the complaint

3.a. Full reference of the crypto-asset service to which the complaint relates (i.e. name of the crypto-asset service provider, crypto-asset service reference number, or other references of the relevant transactions ...)

...

...

...

3.b. Description of the complaint's subject-matter

...

...

...

Please provide any documentation supporting the facts mentioned.

3.c. Date(s) of the facts that have led to the complaint

...

...

...

3.d. Description of damage, loss or detriment caused (where relevant)

...

...

...

3.e. Other comments or relevant information (where relevant)

...

...

...

In _____ (place) on _____ (date)

SIGNATURE**COMPLAINANT/LEGAL REPRESENTATIVE OF THE COMPLAINANT**

Documentation provided (please check the appropriate box):	
Power of attorney or other official document as proof of the appointment of the representative	☐
Copy of the contractual documents of the investments to which the complaint relates	☐
Other documents supporting the complaint:	☐
...	
...	
...	

APPENDIX 9: COMMISSION DELEGATED REGULATION (EU) 2025/296
of 31 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
procedure for the approval of a crypto-asset white paper

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁰², and in particular to Article 17(8), third subparagraph thereof,

Whereas:

- (1) The procedure for the approval of a crypto-asset white paper pursuant to Article 17(1), point (a), of Regulation (EU) 2023/1114 is closely linked to the procedure applicable for the notification of relevant information to the competent authority pursuant to Article 17(1), point (b), of that Regulation because the competent authority cannot approve the crypto-asset white paper in the case of a negative opinion from the European Central Bank (ECB) or, where applicable, the relevant central bank pursuant to Article 17(5), third subparagraph, of that Regulation. At the same time, according to Article 17(5) of that Regulation the information submitted to the ECB and, where applicable, the relevant central bank, based on which they are to issue an opinion, is required to be complete and to include the crypto-asset white paper submitted by the issuer to the competent authority in accordance with Article 17(1), point (a), of that Regulation. Therefore, the provisions further specifying the procedure for the approval of a crypto-asset white paper referred to in Article 17(1), point (a), of Regulation (EU) 2023/1114 should establish a similar process to the one set out in Article 17(3) of that Regulation. In particular, those provisions should provide for a completeness assessment with the same rules and timelines as those set out in Article 17(3) of Regulation (EU) 2023/1114.
- (2) In order to ensure the swift and efficient completion of the crypto-asset white paper approval process in the most proportionate way, the submission of the application for approval of the crypto-asset white paper and other communication or exchange of information between the credit institution and the competent authority as well as between the competent authority and the ECB or, as applicable, a relevant central bank, should be made via electronic means, which allow easier and faster communication and record-keeping. Given the high expectations of diligence on both public authorities and institutions, a high level of security should be expected to be achieved.
- (3) Where, in the course of the completeness assessment, a competent authority finds that the crypto-asset white paper is missing some of the elements required by Article 19(1) of Regulation (EU) 2023/1114, and requests the credit institutions to resubmit the crypto-asset white paper with those additional elements, the credit institution should be able to demonstrate to the competent authority how the additional information in the revised white paper addresses that request. It is therefore necessary to provide that each revised version of the crypto-asset white paper submitted to the competent authority contains such an

¹⁰² OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

explanation, as well as a marked-up file of the crypto-asset white paper that clearly highlights all changes made since the previously submitted version, and a clean file where such changes are not highlighted.

- (4) In terms of the further specification of the procedure that is common to the approval of the crypto-asset white paper and the notification to the competent authority, and in particular with regard to that part of the procedure that relates to the competent authority's communication of the complete information to the ECB and, where applicable, the relevant central bank, it is necessary to specify the practicalities and logistics of that exchange of information so as to ensure its smooth and efficient running.
- (5) Article 17(5) of Regulation (EU) 2023/1114 sets out a timeline for the issuance of the ECB's and, as applicable, relevant central bank's opinion, but it does not specify the implications of the expiry of the timeline for the assessment of the crypto-asset white paper by the competent authority. Therefore, it should be clarified that the competent authority should commence substantive assessment of the crypto-asset white paper following a positive opinion or the expiry of the deadline for issuing the opinion. In case the ECB or the relevant central bank issues a delayed opinion, the competent authority could still consider it unless the deadline for the approval process of the crypto-asset white paper has expired.
- (6) In the course of the substantive assessment of the crypto-asset white paper by the competent authority, which aims to ensure compliance of the crypto-asset white paper with the requirements of Article 19 of Regulation (EU) 2023/1114, the competent authority should be able to request improvements to the crypto-asset white paper submitted by the credit institution to the competent authority. That is necessary to ensure that the crypto-asset white paper meets the requirements set out in that Regulation in the most efficient manner, i.e. without having to re-start anew the whole procedure for the crypto-asset white paper approval, which could disproportionately delay the launch of the asset-referenced token. It also gives a possibility to the competent authority to request the credit institution to address any comments or suggestions of the ECB or the relevant central bank in its positive opinion. To allow for a smooth and harmonised approach to the approval procedure, the timeline for the final decision of the competent authority on the crypto-asset white paper approval should be specified.
- (7) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority. The European Banking Authority has developed these draft regulatory technical standards in close cooperation with the European Securities and Markets Authority and with the ECB.
- (8) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁰³,

HAS ADOPTED THIS REGULATION:

Article 1

Application for approval of a crypto-asset white paper

¹⁰³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

1. When a credit institution submits the crypto-asset white paper to the competent authority for the purpose of its approval in accordance with Article 17(1), point (a), of Regulation (EU) 2023/1114, the credit institution shall provide a contact point for the competent authority to submit all communications to it.
2. Competent authorities shall provide on their website contact details for the purposes of approvals of crypto-asset white papers.
3. The submission of the application for approval of a crypto-asset white paper as well as notifications or communications between the competent authorities, the European Central Bank (ECB) and other relevant central banks and credit institutions in accordance with this Regulation shall be made by electronic means.

Article 2

Acknowledgement of the receipt of an application for approval of a crypto-asset white paper

1. The competent authority shall acknowledge receipt of the application for approval of a crypto-asset white paper within 2 working days following the receipt of the application.
2. The acknowledgement referred to in paragraph 1 shall include the following information:
 - (a) the reference number of the application;
 - (b) the contact point within the competent authority to which queries regarding the application may be addressed.

Article 3

Assessment of completeness of the crypto-asset white paper

The competent authority shall, within 20 working days of receipt of the application for approval of a crypto-asset white paper, assess the completeness of the crypto-asset white paper with regard to the requirements referred to in Article 19(1) of Regulation (EU) 2023/1114.

Article 4

Request of missing information to a crypto-asset white paper

1. Where the competent authority concludes that the crypto-asset white paper is not complete with regard to the requirements of Article 19(1) of Regulation (EU) 2023/1114, the competent authority shall inform the credit institution of the missing information and shall set a deadline by which that credit institution is required to provide the missing information.
2. The deadline for providing any missing information referred to in paragraph 1 shall not exceed 20 working days from the date of the request. Until the expiry of the deadline referred to in paragraph 1, the period set in Article 3 shall be suspended. Any further requests by the competent authority for completion or clarification of the information for the assessment under Article 3 shall be at its discretion but shall not result in a suspension of the set period.
3. Following any request from the competent authority referred to in paragraph 1, the credit institution shall submit a revised crypto-asset white paper to the competent authority within the deadline set in the request. The submission by the credit institution shall include the following:

- (a) the revised crypto-asset white paper in a clean, unmarked version;
- (b) the revised crypto-asset white paper in a version with all the changes clearly marked, highlighting all supplementary information that is new compared to the original version of the crypto-asset white paper submitted in accordance with Article 1;
- (c) an explanation as to how the supplementary information, reflected in the version referred to in point (b), addresses the competent authority's request pursuant to paragraph 1 for providing missing information.

Article 5

Notification of completeness of a crypto-asset white paper

1. Where, after the process set out in Article 4 is completed, the competent authority assesses the crypto-asset white paper as complete, it shall notify the credit institution of the completeness of the crypto-asset white paper. The notification shall set the date at which the crypto-asset white paper is deemed complete.
2. Where, after the process set out in Article 4 is completed, the competent authority assesses the crypto-asset white paper as incomplete, it shall reject the application for approval of the crypto-asset white paper and notify its decision to the credit institution.

Article 6

Information exchange between the competent authority and the ECB and the relevant central banks in relation to the crypto-asset white paper

1. The communication by the competent authority referred to in Article 17(5), first subparagraph, of Regulation (EU) 2023/1114 shall be made no later than 2 working days from the notification referred to in Article 5(1) of this Regulation.
2. The ECB and, where applicable, the relevant central bank as referred to in Article 17(5), first subparagraph, of Regulation (EU) 2023/1114, shall, within 2 working days of the receipt of the complete information, provide the competent authority with both of the following:
 - (a) acknowledgement of receipt of the information;
 - (b) the contact point to which queries regarding the application may be addressed.

Article 7

Substantive assessment of a crypto-asset white paper

Following a positive opinion by the ECB or, where applicable, the relevant central bank as referred to in Article 17(5), first subparagraph, of Regulation (EU) 2023/1114, or following the expiration of the period of 20 working days laid down in Article 17(5), second subparagraph, of that Regulation without any opinion issued by the ECB or the relevant central bank, the competent authority shall carry out a substantive assessment of the crypto-asset white paper with regard to the requirements referred to in Article 19 of that Regulation.

Article 8

Request of changes to a crypto-asset white paper

1. Within 10 working days of a positive opinion by the ECB or, where applicable, the relevant central bank as referred to in Article 17(5), first subparagraph, of Regulation (EU) 2023/1114, or following the expiration of the period of 20 working days laid down in Article 17(5), second subparagraph, of that Regulation without any opinion issued by the ECB or the relevant central bank, the competent authority may notify the credit institution of a duly justified request for changes of the crypto-asset white paper. The request shall set a deadline by which that credit institution is required to provide the updated crypto-asset white paper.
2. The deadline for the credit institution to provide the updated crypto-asset white paper requested by the competent authority as referred to in paragraph 1 shall not exceed 10 working days following the issuance of the request for changes by the competent authority.
3. Following any request from the competent authority referred to in paragraph 1, the credit institution shall submit a revised crypto-asset white paper to the competent authority within the deadline set out in the request. The submission by the credit institution shall include all of the following:
 - (a) the revised crypto-asset white paper in a clean, unmarked version;
 - (b) the revised crypto-asset white paper in a version with all the changes clearly marked, highlighting all changes made compared to the version of the crypto-asset white paper submitted either in accordance with Article 1, or, where additional information had been requested by the competent authority, in accordance with Article 4;
 - (c) an explanation as to how the changes made, reflected in the version referred to in point (b), address the competent authority's request, pursuant to paragraph 1, for making substantive changes to the crypto-asset white paper.

Article 9

Approval of the crypto-asset white paper

1. The competent authority shall notify the credit institution of its final decision regarding the approval of the crypto-asset white paper within 10 working days from the receipt of the new crypto-asset white paper referred to in Article 8(3) or, where no changes to the crypto-asset white paper are requested, 10 working days from a positive opinion by the ECB or, where applicable, the relevant central bank as referred to in Article 17(5), first subparagraph, of Regulation (EU) 2023/1114, or following the expiration of the period of 20 working days laid down in Article 17(5), second subparagraph, of that Regulation without any opinion issued by the ECB or the relevant central bank.
2. The crypto-asset white paper shall not be published until the competent authority of the home Member State has approved it.

Article 10

Entry into force

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

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

Done at Brussels, 31 October 2024.

APPENDIX 10: COMMISSION DELEGATED REGULATION (EU) 2025/297
of 31 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
conditions for the establishment and functioning of consultative supervisory
colleges

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁰⁴, and in particular Article 119(8), third subparagraph, thereof,

Whereas:

- (1) Under Article 119(1) of Regulation (EU) 2023/1114, the European Banking Authority ('EBA') is to establish, manage and chair a consultative supervisory college ('the college') for each issuer of a significant asset-referenced token or of a significant e-money token, to facilitate the carrying out of supervisory tasks and to allow for the coordination of supervisory activities under that Regulation. Article 119(2) thereof lists the entities that comprise the core membership of the college.
- (2) In order to ensure a consistent and coherent functioning of such colleges across the European Union, the EBA is to determine, under Article 119(8), first subparagraph, of Regulation (EU) 2023/1114, which of the entities referred to in Article 119(2), points (d), (e), (f), (h), of that Regulation are deemed to be the most relevant and, under Article 119(2), point (l), of that Regulation, in which Member States an asset-referenced token or an e-money token is deemed to be used at large scale. For that purpose, EBA should take into account the entities that rank highest based on suitable criteria, the particularities of each case and the balance between the need to ensure an appropriate representation of the relevant competent authorities in the college and the need to ensure the effective functioning of the college.
- (3) EBA should also be able to decide to invite to become a member of the college the competent authorities of only some of the entities deemed as most relevant under Article 119(2), points (d), (e), (f) and (h), of Regulation (EU) 2023/1114, where the EBA is of the view that those entities are the only ones relevant in their category for the work of the college.
- (4) EBA should reassess, at least every 2 years, which authorities qualify to be members of the college under Article 119(2), points (d), (e), (f), (h) and (l), of Regulation (EU) 2023/1114. The frequency of the reassessment should be determined taking into account the need to ensure an appropriate representation of the relevant competent authorities in the college, as these may change over time, notably as a result of market developments affecting the asset-referenced token or e-money token, as well as the need to ensure the college's stability.

¹⁰⁴ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (5) In accordance with Article 119(6) of Regulation (EU) 2023/1114, the establishment and functioning of the college should be based on a written agreement between its members. Taking into account the timeline set out in Article 119(1) of that Regulation for the establishment of the college, it is appropriate to specify in this Regulation the practical arrangements for the conclusion of the written agreement.
- (6) The members of the college should discuss any possible entrustment of tasks among the college members under Article 119(5), point (c), of Regulation (EU) 2023/1114. Where a college is established for a credit institution issuing a significant e-money token, for which the supervisory responsibility under Regulation (EU) 2023/1114 remains with the competent prudential supervision authority and is not transferred to EBA, the latter should be able to entrust its tasks as chair of the college referred to in Article 119(7), points (b) to (e), of Regulation (EU) 2023/1114 to, or share them with, the prudential supervision authority competent to supervise that credit institution. Such entrustment or sharing of tasks might be necessary to ensure a more efficient coordination of the college, since that authority is in a better position to coordinate and communicate with other authorities relevant for the credit institution in question and has a better knowledge of the situation of that credit institution. Nevertheless, EBA should remain in charge of establishing written arrangements and procedures for the functioning of the college, after consulting the other members of the college, as required by Article 119(7), point (a), of Regulation (EU) 2023/1114, to ensure that it retains oversight of the chairing of the college. The written agreement referred to in Article 119(6) of that Regulation should also describe the arrangements on the voluntary entrustment of tasks among its members under Article 119(5), point (c), of that Regulation, where such entrustment takes place.
- (7) The chair of the college should have the possibility to invite other authorities, that are not members of the college, to attend a college meeting, or a particular agenda item. This might include authorities related to the issuer of significant asset-referenced token or a significant e-money token, or to the group it belongs to, on the basis of other sectoral legislation, such as the consolidating supervisor of a credit institution, as defined in Article 4(1), point (41), of Regulation (EU) No 575/2013 of the European Parliament and of the Council¹⁰⁵, or the lead supervisor of the relevant anti-money laundering and countering the financing of terrorism supervisory college, as the case may be. The chair of the college should decide what information is relevant for those authorities and involve them in the relevant college meeting or activity accordingly.
- (8) The members of the college who are involved in a particular meeting or activity of the college should exchange documents and contributions to working documents with sufficient time in advance to enable all participants in the college meeting to actively contribute to the discussions. The minimum timeframes for the assessment of the relevant documentation by the members of the college should be specified in the written agreement referred to in Article 119(6) of Regulation (EU) 2023/1114, taking into account the complexity of the work and the size of the college, the topic at hand and any relevant timelines set out in that Regulation.
- (9) In order to facilitate the cooperation and information exchange among the members of the college, it is appropriate to further specify the general framework for the exchange of information between the members of the college.
- (10) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the EBA.
- (11) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the

¹⁰⁵ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>).

Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁰⁶,

HAS ADOPTED THIS REGULATION:

Article 1

Determination of the most relevant entities referred to in Article 119(2), points (d), (e), (f) and (h) of Regulation (EU) 2023/1114

1. For the purpose of determining the most relevant entities referred to in Article 119(2), point (d) of Regulation (EU) 2023/1114, EBA shall take into account, in particular, all of the following:
 - (a) where a consultative supervisory college ('college') is established for an issuer of a significant asset-referenced token or for an electronic money institution issuing a significant e-money token, the three crypto-asset service providers, credit institutions or investment firms that held in custody the highest value of the reserve assets referred to in Article 37 of Regulation (EU) 2023/1114 during the reference period, as defined in Article 3 of this Regulation;
 - (b) where a college is established for a credit institution issuing a significant e-money token, the three crypto-asset service providers, credit institutions or investment firms that held in custody the highest percentage of the funds received in exchange of the e-money tokens, during the reference period, as defined in Article 3 of this Regulation.
2. For the purpose of determining the most relevant entities referred to in Article 119(2), point (e) of Regulation (EU) 2023/1114, EBA shall take into account, in particular, all of the following:
 - (a) the three crypto-asset service providers ensuring the operation of a trading platform for crypto-assets that have executed the highest average number of transactions per day with the significant asset-referenced token or the significant e-money token, during the reference period defined in Article 3 of this Regulation;
 - (b) the three crypto-asset service providers ensuring the operation of a trading platform for crypto-assets that have executed the highest average aggregated value of transactions per day with the significant asset-referenced token or the significant e-money token, during the reference period defined in Article 3 of this Regulation.
3. For the purpose of determining the most relevant entities referred to in Article 119(2), point (f) of Regulation (EU) 2023/1114, EBA shall take into account, in particular, all of the following:
 - (a) the three payment service providers that have executed the highest average number of payment transactions, as defined in Article 4, point (5) of Directive (EU) 2015/2366 of the European Parliament and of the Council¹⁰⁷, in relation to the significant e-money token per day, during the reference period defined in Article 3 of this Regulation;

¹⁰⁶ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

¹⁰⁷ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35, ELI: <http://data.europa.eu/eli/dir/2015/2366/oj>).

- (b) the three payment service providers that have executed the highest average aggregate value of payment transactions, as defined in Article 4, point (5) of Directive (EU) 2015/2366, in relation to the significant e-money token per day, during the reference period defined in Article 3 of this Regulation.
4. For the purpose of determining the most relevant entities referred to in Article 119(2), point (h) of Regulation (EU) 2023/1114, EBA shall take into account, in particular, all of the following:
- (a) the three crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients that have executed the highest average number of transactions per day with the significant asset-referenced token or the significant e-money token, during the reference period defined in Article 3 of this Regulation;
 - (b) the three crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients that have executed the highest average aggregated value of transactions per day with the significant asset-referenced token or the significant e-money token, during the reference period defined in Article 3 of this Regulation.
5. EBA may decide to invite the competent authorities of only some of the entities referred to in paragraphs 1 to 4 to be a member of the college where the EBA is of the view that those entities are the only ones relevant in their category for the work of the college.

Article 2

Conditions under which an asset-referenced token or an e-money token is deemed to be used at large scale as referred to in Article 119(2), point (l) of Regulation (EU) 2023/1114

1. For the purpose of Article 119(2), point (l) of Regulation (EU) 2023/1114, a significant asset-referenced token or a significant e-money token shall be deemed to be used at large scale in a Member State, where:
- (a) the number of holders of the significant asset-referenced token or of the significant e-money token located in that Member State, on at least one day during the applicable reference period, is of at least 20 % of the population of that Member State; or
 - (b) the average number and average aggregate value of transactions per day with the significant asset-referenced token or the significant e-money token during the reference period defined in Article 3 of this Regulation, where at least one party to the transactions is located in that Member State, is higher than 1 250 000 transactions and EUR 250 000 000 respectively.
2. For the purpose of paragraph 1, point (a), the holder of the significant asset-referenced token or of the significant e-money token means the holder of that token that benefits of a right of redemption under Regulation (EU) 2023/1114.
3. For the purpose of paragraph 1, the location of a holder of the significant asset-referenced token or of the significant e-money token, or of a party to a transaction with such tokens, refers to any of the following:
- (a) for natural persons, their habitual residence;
 - (b) for legal persons, the registered office address.
4. A competent authority requesting to become a member of the college based on point (l) of Article 119(2) of Regulation (EU) 2023/1114 shall submit a reasoned request to EBA and provide data showing that the criteria mentioned in paragraph 1 are met.

Article 3

Reference period and transactions

1. The reference period referred to in Articles 1 and 2 shall be the most recent six-month period covered by the reporting obligation referred to in Article 22(1) of Regulation (EU) 2023/1114.
2. For the purpose of Article 1(2) and (4), and of Article 2(1), point (b), 'transaction' shall mean any change of the natural or legal person entitled to an asset-referenced token or an e-money token as a result of the transfer of that token from one distributed ledger address or account to another.

Article 4

Reassessment of the college composition

1. EBA shall reassess, at least every 2 years, which competent authorities qualify to be members of the college under Article 119(2), points (d), (e), (f), (h) and (l) of Regulation (EU) 2023/1114.
2. For the purpose of the reassessment referred to in paragraph 1, each competent authority that is a member of the college under Article 119(2), point (l) of Regulation (EU) 2023/1114 shall provide EBA, upon request and without undue delay, with the information necessary to assess whether those authorities continue to qualify to be a member of the college based on the criteria specified in Article 2 of this Regulation.

Article 5

Conclusion of the written agreement referred to in Article 119(6) of Regulation (EU) 2023/1114

1. EBA shall communicate its proposal on the written agreement referred to in Article 119(6) of Regulation (EU) 2023/1114 to the members of the college determined in accordance with Article 119(2) of that Regulation, inviting them to provide their views within 10 calendar days.
2. For the purposes of finalising the written agreement referred to in paragraph 1, EBA shall take into account any views and reservations expressed by the members of the college. EBA shall provide reasons for not incorporating such views or reservations in the written agreement.
3. Upon finalising the written agreement referred to in paragraph 1, EBA shall communicate the written coordination and cooperation arrangements to the members of the college.

Article 6

Participation in the college

1. Each member of the college shall designate one participant, selected as the most appropriate taking into account the topics discussed and objectives pursued, to attend the meetings or activities of the college and to represent that member of the college in the college meetings. Each member of the college may designate one alternate, with the exception of EBA, which shall designate one representative and may ask additional participants to attend, without voting rights, in college meetings or activities.
2. Where a competent authority has the right to be a member of the college in two or more of the cases referred to in Article 119(2), points (c) to (h), (j), and (l), of Regulation (EU) 2023/1114, or where several authorities from the same third country have the right to be members of the college under Article 119(2), point

(m), of that Regulation, those authorities may designate one additional participant to attend, without voting rights, the meetings or activities of the college and may designate one alternate for that participant.

3. Where there are several members of the college per Member State, those college members shall inform the chair of the college which one of them will be the voting member.

4. Based on the agenda, or particular item thereof, topics and objectives of a college meeting or activity, the chair of the college may invite other authorities that are not members of the college to attend that meeting or activity. The chair of the college shall decide what information is relevant for those authorities and involve them in the college meeting or activity accordingly. These authorities shall have no voting rights. The chair of the college shall inform all members of the college accordingly, without undue delay.

5. For the adoption of an opinion of the college or of a recommendation included in an opinion of the college in accordance with Article 120(1) and (2) of Regulation (EU) 2023/1114, a quorum of half of the voting members of the college shall be required. If such quorum is not reached, the chair of the college may convene an extraordinary meeting at which decisions may be taken without quorum.

6. The majority referred to in Article 120(3) of Regulation (EU) 2023/1114 shall consist of a simple majority of the members of the college who have a voting right in a meeting of that college. A simple majority shall also be deemed to have been achieved where more members who have a voting right vote in favour of a proposal than those who vote against it. Abstentions shall not be counted as approvals or as objections, and shall not be considered when calculating the number of votes cast.

Article 7

Establishment and update of a contact list

1. The chair of the college shall maintain a contact list of the members of the college, including full contact details, and communicate it to the members of the college.

2. The members of the college shall provide their contact details to the chair of the college and shall inform the chair of any changes in those details without undue delay.

3. Any updated version of the contact list shall be communicated by the chair of the college to the members of the college without undue delay.

Article 8

Operational aspects of college meetings

1. The chair of the college shall determine the frequency of the college meetings having regard to the tasks of the college as set out in Article 120 of Regulation (EU) 2023/1114, and potential requests by college members.

2. The chair of the college shall convene at least one meeting of the college per year. The chair of the college shall decide if a meeting is convened in physical or in virtual format, based on the objectives the chair of the college sets for that meeting.

3. The members of the college may request the chair of the college to hold a meeting of the college. The chair of the college shall provide reasons for any rejection of such request.

4. The chair of the college shall send the proposed agenda of the college meeting to all the members of the college, and shall invite them to propose any additional agenda items. The chair of the college shall take into

account any proposals on agenda items made by the members and shall explain, if requested, the reason for not incorporating them.

5. The members of the college who are involved in a particular meeting or activity of the college shall exchange documents and contributions to working documents with sufficient time in advance to enable all participants in that meeting or activity to actively contribute to the discussions in question.

Article 9

Exchange of information between college members

1. Each member of a college shall provide, upon request and without undue delay, to EBA and, where applicable, to the competent authority entrusted with the tasks referred to in Article 119(7), points (b) to (e), of Regulation (EU) 2023/1114 in accordance with Article 10 of this Regulation, any information necessary in order to facilitate the exercise of the EBA's supervisory powers under Article 117 of Regulation (EU) 2023/1114 and exchange information when required by that Regulation.

2. EBA and, where applicable, the competent authority entrusted with the tasks referred to in Article 119(7), points (b) to (e), of Regulation (EU) 2023/1114 in accordance with Article 10 of this Regulation shall receive all information exchanges between the members of the college.

3. EBA and, where applicable, the competent authority entrusted with the tasks referred to in Article 119(7), points (b) to (e), of Regulation (EU) 2023/1114 in accordance with Article 10 of this Regulation may decide to share the information referred to in paragraphs 1 and 2 with other members of the college where it deems that information to be relevant for those members.

4. Where an issuer offers more than one significant asset-referenced token or significant e-money token, EBA may decide to organise several colleges, one for each significant asset-referenced token or significant e-money token, or group of significant asset-referenced tokens or significant e-money tokens.

5. Where several colleges are organised pursuant to paragraph 4, the chair of each college shall keep all the members of its college fully informed, in a timely manner, on the actions taken or the measures carried out in the other colleges that deal with other significant asset-referenced tokens or significant e-money tokens of the same issuer.

6. The members of the college shall agree on the means for the exchange of information among them and shall specify such means in the written agreement referred to in Article 119(6) of Regulation (EU) 2023/1114.

7. The transmission of confidential information between the members of the college shall be done by secure channels of communication.

Article 10

Entrustment of tasks among the college members

1. The members of the college shall exchange views on a possible voluntary entrustment of tasks among them under Article 119(5), point (c), of Regulation (EU) 2023/1114.

2. The entrustment of the tasks referred to in paragraph 1 may also include all or some of the tasks mentioned in Article 119(7), points (b) to (e), of Regulation (EU) 2023/1114.

3. The agreement referred to in Article 119(6) of Regulation (EU) 2023/1114 shall specify a description of the arrangements on entrustment of tasks referred to in paragraph 1, where relevant.

Article 11

Entry into force

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

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

Done at Brussels, 31 October 2024.

APPENDIX 11: COMMISSION DELEGATED REGULATION (EU) 2025/299
of 31 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council on markets in crypto-assets with regard to regulatory technical
standards on continuity and regularity in the performance of crypto-asset
services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁰⁸, and in particular Article 68(10), third subparagraph, thereof,

Whereas:

- (1) Articles 11 and 12 of Regulation (EU) 2022/2554 of the European Parliament and of the Council¹⁰⁹ provide for requirements relating to response and recovery, backup policies and procedures, restoration and recovery procedures and methods concerning the ICT systems of financial entities, including crypto-asset services providers. Commission Delegated Regulation (EU) 2024/1774¹¹⁰ further specifies components of the ICT business continuity policy, the testing of ICT business continuity plans, the components of the ICT response and recovery plans of financial entities, including crypto-asset service providers. This Regulation complements those provisions of Regulation (EU) 2022/2554 and of Delegated Regulation (EU) 2024/1774 with respect to continuity and regularity in the performance of the crypto-asset services.
- (2) In providing their services, crypto-asset service providers may use a distributed ledger over which they have no control, including a permissionless distributed ledger. In that case, they may not be capable of ensuring the regularity and continuity of their services when disruptions are caused by problems that are inherent to the operation of such distributed ledgers. To mitigate market volatility that may have an adverse impact on clients affected by such disruptions, crypto-asset service providers should include in their business continuity policy measures for timely communication with clients and other external stakeholders. Such communication should include essential and timely information for clients on such disruptions, including ongoing status updates, until the disruption is resolved and services are resumed. Where information on the status of the permissionless distributed ledger responsible for a service disruption is not readily available to the crypto-asset service provider, that crypto-asset service provider should communicate

¹⁰⁸ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹⁰⁹ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2554/oj>).

¹¹⁰ Commission Delegated Regulation (EU) 2024/1774 of 13 March 2024 supplementing Regulation (EU) 2022/2554 of the European Parliament and of the Council with regard to regulatory technical standards specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework (OJ L, 2024/1774, 25.6.2024, ELI: http://data.europa.eu/eli/reg_del/2024/1774/oj).

updates to clients and other stakeholders, including competent authorities, on a best effort basis to ensure that clients and stakeholders have as comprehensive information as possible on such disruptions.

- (3) To avoid disproportionate administrative burden for small and medium-enterprises and start-ups, crypto-asset service providers should consider in their business continuity policy the scale, nature, and range of the services they provide. That means that crypto-asset service providers should determine their specific business continuity requirements on the basis of a robust self-assessment, based on a number of criteria that would enable them to implement a business continuity policy that is commensurate with the market impact of their services. The self-assessment should also take into account other circumstances beyond those listed in the Annex that may have an impact on the crypto-asset service provider.
- (4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (5) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹¹¹,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'critical or important function' means a critical or important function as defined in Article 3, point (22), of Regulation (EU) 2022/2554;
- (b) 'permissionless distributed ledger' means a specific type of distributed ledger in which no entity controls the distributed ledger and DLT network nodes can be set up by any person complying with the technical requirements and the protocols of that distributed ledger.

Article 2

Business continuity organisational arrangements

- 1. The business continuity policy referred to in Article 68(7) of Regulation (EU) 2023/1114 shall be comprised of plans, procedures and measures.
- 2. The management body of crypto-asset service providers, in the exercise of its functions referred to in Article 68(6) of Regulation (EU) 2023/1114, shall establish and endorse the plans, procedures, and measures that comprise the business continuity policy. The crypto-asset service provider's management body shall be

¹¹¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

responsible for the implementation of the business continuity policy, and for reviewing its effectiveness at least on an annual basis.

3. Crypto-asset service providers shall ensure that any modifications to the business continuity policy are transmitted to all relevant internal staff through effective communication channels.

Article 3

Business continuity policy

1. The business continuity policy referred to in Article 68(7) of Regulation (EU) 2023/1114 shall ensure that crypto-asset service providers properly address disruptive incidents or performance issues relating to the systems critical to the operation of their business functions and it shall be laid down in a durable medium.

2. Crypto-asset service providers shall include in the business continuity policy all of the following:

- (a) a specification of the scope of the business continuity policy, including its limitations and exclusions, to be covered by the business continuity plans, procedures, and measures;
- (b) a description of the criteria to activate the business continuity plans, including escalation procedures up to the level of the management body;
- (c) provisions on the governance and organisation of the crypto-asset service provider, including, the roles and responsibilities of the staff, ensuring that sufficient resources are available for the effective implementation of the policy;
- (d) provisions that ensure consistency between the business continuity plans and the ICT-business continuity plans, and ICT response and recovery plans referred to in Articles 24 and 26 of Delegated Regulation (EU) 2024/1774.

Article 4

Business continuity plans

1. When implementing the business continuity policy referred to in Article 68(7) of Regulation (EU) 2023/1114, crypto-asset service providers shall establish business continuity plans. The business continuity plans shall set out the procedures necessary to protect and, where necessary, re-establish:

- (a) the confidentiality, integrity, and availability of client data;
- (b) the availability of the business functions, supporting processes and information assets of the crypto-asset service providers.

2. The business continuity plans shall contain the following:

- (a) a range of possible adverse scenarios relating to the operation of critical or important functions, including the unavailability of business functions, staff, workspace, external suppliers, data centres, or loss or alteration of critical data and documents;
- (b) the procedures and policies to be followed in case of a disruptive incident, including:
 - (i) the measures that are necessary to recover critical or important functions;

- (ii) the deadlines by which those critical or important functions are to be recovered;
 - (iii) recovery point objectives;
 - (iv) the maximum time to resume services;
- (c) the procedures and policies for relocating the business functions used to provide crypto-asset services to a back-up site;
- (d) back-up of critical business data, including up-to-date information of the necessary contacts to ensure communication inside the crypto-asset service provider, between the crypto-asset service provider and its clients;
- (e) procedures for timely communications with clients and other external stakeholders, including competent authorities.
3. In the event of a disruption involving a permissionless distributed ledger used by the crypto asset service provider in the provision of its services, the communications referred to in paragraph 2, point (e) shall include the following information:
- (a) when the services are expected to be resumed;
 - (b) the reasons and the impact of the disruptive incident;
 - (c) any risks concerning clients' funds and crypto-assets held on their behalf;
 - (d) measures that the crypto-asset service intends to take in response to the disruption of a permissionless distributed ledger.

Where that information is not readily available to the crypto-asset service provider, the crypto-asset service provider shall communicate updates as regards the information in the first subparagraph to clients and stakeholders, including competent authorities, on a best effort basis.

4. The business continuity plans shall contain procedures to address any disruptions of outsourced critical or important functions, including where those critical or important functions become unavailable.

Article 5

Periodic testing of the business continuity plans

1. Crypto-asset service providers shall test the operation of the business continuity plans referred to in Article 4 on the basis of realistic scenarios. Such testing shall verify the capability of the crypto-asset service provider to recover from disruptive incidents and to resume services in accordance with Article 4(2), point (b).
2. Crypto-asset service providers shall test the business continuity plans annually taking into account:
- (a) the results of the tests referred to in paragraph 1;
 - (b) the most recent threat intelligence;
 - (c) lessons derived from previous events;

- (d) where relevant, any changes in the recovery objectives, including recovery time objectives and recovery point objectives as referred to in Article 4(2), point (b);
 - (e) changes in the business functions.
3. Crypto-asset service providers shall document the results of the testing activity in writing, and submit them to their management body and to the operating units involved in the business continuity plans.
 4. Crypto-asset service providers shall ensure that the testing of the business continuity plans does not interfere with normal conduct of their services.

Article 6

Complexity and risk considerations

1. When establishing the business continuity policy, including the plans, procedures and measures, crypto-asset service providers shall take into account elements of increased complexity or risk, including:
 - (a) the type and range of crypto-asset services offered;
 - (b) the extent to which the services of the crypto-asset service provider rely on permissionless distributed ledger;
 - (c) the potential impact of any disruptions on the continuity of the crypto-asset service provider's activities and availability of its services.
2. For the purposes of paragraph 1, crypto-asset service providers shall conduct a self-assessment of the scale, the nature, and range of their services annually. Crypto-asset service providers shall base that self-assessment on the criteria set out in the Annex and any other criteria that the crypto-asset service provider considers relevant.

Article 7

Entry into force

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

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

Done at Brussels, 31 October 2024.

ANNEX**CRITERIA FOR THE SELF-ASSESSMENT OF CRYPTO-ASSET SERVICE PROVIDERS**

- (a) The nature of the crypto-asset service provider, based on the following elements:
 - (i) the class designation referred to in Annex IV to Regulation (EU) 2023/1114;
 - (ii) the average liquidity levels, or market depth, of crypto-assets available to trade on a trading platform for crypto-assets, where applicable;
 - (iii) the role of the crypto-asset service provider in the financial system, including whether the crypto-asset service provider operates a trading platform for crypto assets and whether crypto-assets traded on its platform are traded on other trading platforms for crypto-assets.
- (b) Scale, by assessing the impact of the crypto-asset service provider on the orderly functioning of the markets based on the following elements, where applicable:
 - (i) whether the crypto-asset service provider qualifies as significant as referred to Article 85 of Regulation (EU) 2023/1114;
 - (ii) the number of countries in which the crypto-asset service provider is conducting business activity;
 - (iii) the number of clients;
 - (iv) the number of active users;
 - (v) the value of crypto-assets held in custody;
 - (vi) the volume of transactions on a trading platform for crypto-assets;
 - (vii) the number of transfers of crypto-assets conducted on behalf of clients;
 - (viii) the number of orders executed on behalf of clients.
- (c) Complexity, by assessing the following elements, where applicable:
 - (i) the structure of the crypto-asset service provider in terms of ownership and governance, and its organisational, operational, technical, physical, and geographical presence;
 - (ii) the level of outsourcing of the crypto-asset service provider, and in particular whether any critical or important operational functions have been outsourced;
 - (iii) the number and type of distributed ledgers used in the execution of services;
 - (iv) the number of DLT network nodes the crypto-asset service provider operates on one or multiple distributed ledger(s);
 - (v) the number and type of smart contracts deployed and maintained by the crypto-asset service provider;
 - (vi) how the private cryptographic keys of clients or other means of accessing crypto-assets are secured under safekeeping;

- (vii) the use of software and hardware-based custodial wallets or wallets that secure cryptographic keys using multiple fiduciaries.

For the purposes of points (b)(iii) to (viii), the crypto-asset service provider shall use for the self-assessment the daily average over a one-year reference period.

APPENDIX 12: COMMISSION DELEGATED REGULATION (EU) 2025/300
of 10 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards on information to
be exchanged between competent authorities

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹¹², and in particular Article 95(10), third subparagraph, thereof,

Whereas:

- (1) Markets in crypto-assets are inherently cross-border markets. It is therefore necessary to ensure that competent authorities in different Member States can exchange information that enables them to effectively supervise entities operating in their respective jurisdictions.
- (2) The information to be exchanged by competent authorities pursuant to Article 95(1) of Regulation (EU) 2023/1114 should therefore allow those authorities to effectively carry out their investigation, supervision and enforcement activities under that Regulation. Consequently, it is necessary to specify the information that competent authorities may need to exchange to be able to perform those tasks.
- (3) To ensure that competent authorities can effectively monitor the issuance and offer to the public of crypto-assets other than asset-referenced tokens and e-money tokens, competent authorities should exchange information relating not only to the crypto-assets themselves, including their technical characteristics and categorisation, but also to the offer of the crypto-assets, the issuers and offerors of the crypto-assets and the persons seeking admission to trading of crypto-assets. In particular, competent authorities should exchange general information and documents allowing the identification of the relevant persons and the understanding of the crypto-asset issuance and offering, including notified crypto-asset white papers, as well as information related to identified breaches, penalties and measures, enforcement actions and relevant compliance and conduct history.
- (4) Similarly, to ensure that competent authorities can effectively supervise the issuance of asset-referenced tokens, competent authorities should exchange information relating to the technical characteristics of such tokens. In addition, they should exchange information necessary to ensure that asset-referenced tokens are only issued by authorised persons, and offered by the issuer or by a person authorised by the issuer. Furthermore, in order to assess whether an issuer of asset-referenced tokens complies with Title III of Regulation (EU) 2023/1114, competent authorities should exchange information and documents on the prudential requirements and governance arrangements of the issuer, including its management body, its suitability and its shareholders as well as any imposed administrative penalties and measures, enforcement actions and information on the issuer's relevant compliance and conduct history.

¹¹² J L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (5) Competent authorities should, in order to be able to effectively monitor the issuance of e-money tokens, exchange information relating to the technical characteristics of such tokens. Furthermore, competent authorities should exchange information to ensure that e-money tokens are issued by entities referred to in Article 48(1) of Regulation (EU) 2023/1114, to ensure that such issuers comply with the relevant requirements in Title IV of that Regulation, and to exchange information on any imposed penalties and measures, enforcement actions and information on the issuers' relevant compliance and conduct history.
- (6) To ensure effective monitoring of crypto-asset service providers, competent authorities should exchange general information, constituting documents and other documents that provide insight into the structure and operational activities of such providers. For the same reason, competent authorities should also exchange information about the authorisation process and the subsequent compliance with Title V of Regulation (EU) 2023/1114. This information should include information on the management body of crypto-asset service providers, its suitability to manage such providers, and the reputation of its members, as well as information about shareholders, imposed penalties and measures, enforcement actions and information of the providers' relevant compliance and conduct history.
- (7) Competent authorities should also exchange relevant information on suspicions of market abuse in order to discharge their supervisory duties in a comprehensive manner.
- (8) Finally, competent authorities should exchange information regarding any suspicions of irregularities in the activities of natural and legal persons falling within the scope of Regulation (EU) 2023/1114, as well as details of any risks such irregularities could pose to investor protection or financial stability.
- (9) The exchange of information between competent authorities in relation to investigation, supervision and enforcement activities should be carried out in compliance with the right to protection of personal data of the persons concerned, as set out in Articles 7 and 8, respectively, of the Charter of Fundamental Rights of the European Union and must comply with Regulation (EU) 2016/679 of the European Parliament and of the Council¹¹³. It follows that only personal data that are necessary for the purpose of investigation, supervision and enforcement activities under Regulation (EU) 2023/1114 are exchanged and that those data are not kept longer than necessary for that purpose.
- (10) This Regulation is based on the draft regulatory technical standards drafted by the European Securities and Markets Authority (ESMA) in close cooperation with the European Banking Authority and submitted to the Commission.
- (11) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹¹⁴.
- (12) ESMA has not conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, nor has it analysed the potential related costs and benefits of introducing such standards, as that would have been highly disproportionate in relation to the scope and impact of those standards, taking into account that this Regulation only affects competent authorities and not market participants.

¹¹³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

¹¹⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

(13) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹¹⁵ and delivered an opinion on 27 May 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Information to be exchanged in relation to crypto-assets other than asset-referenced tokens or e-money tokens

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange the following information in relation to a crypto-asset other than an asset-referenced token or e-money token:

- (a) general information and documents received in the context of the notification of an intended offer to the public or admission to trading, and, where relevant supplemented thereafter in the framework of supervision, including:
 - (i) name, legal entity identifier or another identifier required pursuant to applicable national law as reported pursuant to Commission Implementing Regulation (EU) 2024/2984¹¹⁶, registered address and, where different, head office, contact details, relevant excerpts from national registers and, where applicable, articles of association and other instruments of constitution of the following persons, as applicable:
 - (1) the issuer of the assets;
 - (2) the offeror of the assets;
 - (3) the person seeking admission to trade the assets;
 - (4) the operator of the trading platform;
 - (5) any other person that has or should have drawn up the crypto-asset white paper referred to in Article 6 of Regulation (EU) 2023/1114;
 - (ii) all versions of the crypto-asset white paper drafted pursuant to Article 4(1) and Article 5(1) of Regulation (EU) 2023/1114, and information relating to any updates made to it pursuant to Article 12 of that Regulation;
 - (iii) all versions of the marketing communications referred to in Article 4(1) and Article 5(1) of Regulation (EU) 2023/1114, and information relating to any updates made to them pursuant to Article 12 of that Regulation;

¹¹⁵ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

¹¹⁶ Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to forms, formats and templates for the crypto-asset white papers (OJ L, 2024/2984, 3.12.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2984/oj).

- (iv) all information on the offer to the public and admission to trading received pursuant to Article 8(6) of Regulation (EU) 2023/1114;
- (v) the explanation, as referred to in Article 8(4) of Regulation (EU) 2023/1114, of why the crypto-asset described in the crypto-asset white paper should not be considered to be a crypto-asset excluded from the scope of Regulation (EU) 2023/1114 pursuant to Article 2(4) of that Regulation, an e-money token, or an asset-referenced token;
- (vi) the description of the offer to the public of a crypto-asset and any information used to assess the conditions for the exemptions contained in Article 4(2) and (3) of Regulation (EU) 2023/1114;
- (b) information on any penalty, including criminal penalties, administrative measures or enforcement actions, in relation to persons referred to in point (a)(i);
- (c) any other information necessary for cooperation among competent authorities in investigation, supervision and enforcement activities, pursuant to Article 95(1) of Regulation (EU) 2023/1114.

Article 2

Information to be exchanged in relation to asset-referenced tokens

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange the following information in relation to an asset-referenced token:

- (a) general information and documents received in the context of the application for authorisation as an issuer of asset-referenced tokens pursuant to Commission Delegated Regulation establishing technical standards adopted pursuant to Article 18(6) of Regulation (EU) 2023/1114 or of the notification pursuant to Commission Delegated Regulation (EU) 2025/296¹¹⁷, and where relevant supplemented thereafter in the framework of supervision, including:
 - (i) names, legal entity identifier or another identifier required pursuant to applicable national law as reported pursuant to Implementing Regulation (EU) 2024/2984, registered address and, where different, head office, contact details, relevant excerpts from national registers and, where applicable, articles of association and other instruments of constitution of the following persons, as applicable:
 - (1) the applicant issuer of the assets;
 - (2) the issuer of the assets;
 - (3) the offeror of the assets;
 - (4) the persons seeking admission to trade the assets;
 - (5) third-party entities referred to in Article 34(5), point (h), of Regulation (EU) 2023/1114;
 - (ii) all versions of the crypto-asset white paper referred to in Article 19 of Regulation (EU) 2023/1114, and information relating to any updates made to it pursuant to Article 25 of that Regulation;

¹¹⁷ Commission Delegated Regulation (EU) 2025/296 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the procedure for the approval of a crypto-asset white paper (OJ L, 2025/296, 13.2.2025, ELI: http://data.europa.eu/eli/reg_del/2025/296/oj).

- (iii) all versions of the marketing communications referred to in Article 29 of Regulation (EU) 2023/1114;
- (iv) the legal opinion referred to in Article 18(2), point (e), of Regulation (EU) 2023/1114;
- (v) the programme of operations referred to in Article 18(2), point (d), of Regulation (EU) 2023/1114;
- (vi) information about the members of the management body of the asset-referenced token issuer, including their names and positions within the management body, information necessary to assess their good repute and suitability, in particular information about their relevant knowledge, skills, work experience and time committed to their duties within the management body, and the information about their reputation referred to in Article 8(1), point (e) of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 18(6) of Regulation (EU) 2023/1114;
- (vii) where relevant, information on any changes to the management body of the issuer of asset-referenced tokens as referred to in Article 33 of Regulation (EU) 2023/1114, and the competent authority's assessment hereof;
- (viii) information about shareholders holding 20 % or more of the share capital or voting rights of the issuer of asset-referenced tokens, including their identity, the amount of their holdings and the information about their reputation referred to in Article 2, point (a) of Commission Delegated Regulation (EU) 2025/413¹¹⁸;
- (ix) the competent authority's assessment of any proposed acquisitions or disposals of a qualified holding in an asset-referenced token issuer, in accordance with Article 41 of Regulation (EU) 2023/1114;
- (x) information about the organisational structure, operational conditions and compliance with the requirements set out in Title III of Regulation (EU) 2023/1114 of the issuer of the asset-referenced token, including:
 - (1) the governance arrangements and internal control mechanisms referred to in Article 34 of Regulation (EU) 2023/1114;
 - (2) the compliance with own fund requirements, including on the outcome of stress testing programmes, in accordance with Article 35(1), (2) and (5) of Regulation (EU) 2023/1114;
 - (3) where applicable, the compliance with additional own funds requirements in accordance with Article 35(3) of Regulation (EU) 2023/1114;
 - (4) the compliance with the requirements on the reserve of assets in accordance with Article 36 of Regulation (EU) 2023/1114;
 - (5) the independent audit of the reserve of assets, including a summary of results, pursuant to Article 36(9) of Regulation (EU) 2023/1114;

¹¹⁸ Commission Delegated Regulation (EU) 2025/413 of 18 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in an issuer of an asset-referenced token (OJ L, 2025/413, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/413/oj).

- (6) all versions of the recovery plan produced pursuant to Article 46(2) of Regulation (EU) 2023/1114, and information relating to the implementation of or updates to the recovery plan pursuant to Article 46(3) of Regulation (EU) 2023/1114;
- (7) all versions of the redemption plan produced pursuant to Article 47(1) of Regulation (EU) 2023/1114, and information relating to any amendments made to it pursuant to Article 47(3) of Regulation (EU) 2023/1114;
- (b) information about the authorisation as an issuer of asset-referenced tokens, including where the authorisation was refused or the application for authorisation was retracted, and information about the withdrawal of an authorisation pursuant to Article 24 of Regulation (EU) 2023/1114;
- (c) the plan of the issuer of asset-referenced tokens to discontinue the provision of services and activities as approved pursuant to Article 34(7) of Regulation (EU) 2023/1114;
- (d) information on the loss by the third-party entity referred to in Article 34(5), point (h) of Regulation (EU) 2023/1114 of its authorisation as a credit institution, as a crypto-asset service provider, as a payment institution, or as an electronic money institution;
- (e) information on any temporary suspensions by a competent authority of the redemption of asset-referenced tokens and an identification of the circumstances that might affect the interests of the holders of asset-referenced tokens and financial stability pursuant to Article 46(4) of Regulation (EU) 2023/1114;
- (f) information on any infringements of the national provisions transposing Directive (EU) 2015/849 of the European Parliament and of the Council¹¹⁹ by the members of the management body of the issuer of asset-referenced tokens or by shareholders or members, whether direct or indirect, that have qualifying holdings in the issuer of asset-referenced tokens;
- (g) information on any penalty issued pursuant to Regulation (EU) 2023/1114, including criminal penalties, administrative measures or enforcement actions, in relation to an issuer of an asset-referenced token;
- (h) any other information necessary for cooperation among competent authorities in investigation, supervision and enforcement activities pursuant to Article 95(1) of Regulation (EU) 2023/1114.

Article 3

Information to be exchanged in relation to e-money tokens

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange the following information about e-money tokens:

- (a) information and documents received in the context of the notification by an issuer of e-money tokens pursuant to Article 48 of Regulation (EU) 2023/1114 and, where relevant, supplemented thereafter in the framework of supervision, including:

¹¹⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73, ELI: <http://data.europa.eu/eli/dir/2015/849/oj>).

- (i) the name of the issuer, legal entity identifier or another identifier required pursuant to applicable national law as reported pursuant to Commission Implementing Regulation (EU) 2024/2984, its registered address and, where different, head office and its contact details, as referred to in Part A, points 1, 3, 5 and 4, of Annex III to Regulation (EU) 2023/1114;
- (ii) all versions of the crypto-asset white paper referred to in Article 51 of Regulation (EU) 2023/1114;
- (iii) all versions of the marketing communications referred to in Article 53 of Regulation (EU) 2023/1114;
- (iv) information about the organisational structure, operational conditions and compliance with the requirements set out in Title IV of Regulation (EU) 2023/1114 of the issuer of the e-money token, and information provided as part of the authorisation process as credit institution pursuant to Directive 2013/36/EU of the European Parliament and of the Council¹²⁰ or as electronic money institution pursuant to Directive 2009/110/EC of the European Parliament and of the Council¹²¹ and as updated in the framework of supervision, including:
 - (1) its compliance with the requirements on the investment of funds set out in Article 54 of Regulation (EU) 2023/1114;
 - (2) the recovery and redemption plans produced pursuant to Article 55 of Regulation (EU) 2023/1114 and information relating to any updates to them, as well as to any arrangements or measures of the recovery plan effectively implemented pursuant to that Article;
 - (3) information on the compliance with the requirements in Article 58(1) of Regulation (EU) 2023/1114, where a competent authority has required an electronic money institution issuing non-significant e-money tokens to comply with such requirements in accordance with Article 58(2) of that Regulation;
- (b) information on any temporary suspensions by a competent authority of the redemption of e-money tokens and an identification of the circumstances that might affect the interests of the holders of e-money tokens and financial stability, pursuant to Article 55 of Regulation (EU) 2023/1114;
- (c) information on any penalty issued pursuant to Regulation (EU) 2023/1114, including criminal penalties, administrative measures or enforcement actions, in relation to an issuer of e-money tokens;
- (d) any other information necessary for cooperation among competent authorities in investigation, supervision and enforcement activities pursuant to Article 95(1) of Regulation (EU) 2023/1114.

¹²⁰ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>).

¹²¹ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7, ELI: <http://data.europa.eu/eli/dir/2009/110/oj>).

*Article 4***Information to be exchanged in relation to crypto-asset service providers**

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange the following information concerning crypto-asset service providers:

- (a) information and documents received in the context of the application for authorisation as a crypto-asset service provider pursuant to Commission Delegated Regulation (EU) 2025/305¹²² or of the notification pursuant to Commission Delegated Regulation (EU) 2025/303¹²³, and where relevant supplemented thereafter in the framework of supervision, including:
 - (i) the name of the crypto-asset service provider, its legal entity identifier as referred to in Article 17 of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114, its website's URL, its contact email address, telephone number, and physical address, and excerpts from national registers;
 - (ii) where applicable, the crypto-asset provider's articles of association, as referred to in Article 62(2), point (c), of Regulation (EU) 2023/1114;
 - (iii) information about the management body of the crypto-asset service provider, including:
 - (1) the names and where available, the personal identification numbers of its members;
 - (2) information on the functions that each of its members hold within the crypto-asset service provider;
 - (3) where relevant, information on any changes to the management body and the competent authority's assessment thereof;
 - (iv) information about the members of the management body of the crypto-asset service provider necessary to assess their good repute and suitability, including where available:
 - (1) information about their work experience, skills and time committed to their duties within the management body;
 - (2) the information about their reputation referred to in Article 7, point (e) of Delegated Regulation (EU) 2025/305;
 - (v) information about shareholders holding 10 % or more of the share capital or voting rights of the crypto-asset service provider, including their identity, the amount of their holdings, and the information about their reputation listed in Article 2, point (a), of Commission Delegated Regulation

¹²² Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider (OJ L, 2025/305, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/305/oj).

¹²³ Commission Delegated Regulation (EU) 2025/303 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included by certain financial entities in the notification of their intention to provide crypto-asset services (OJ L, 2025/303, 20.2.2025, ELI: http://data.europa.eu/eli/reg_del/2025/303/oj).

(EU) 2025/414¹²⁴, and where relevant, the competent authority's assessment of any proposed acquisitions or disposals of a qualified holding in a crypto-asset service provider, in accordance with Article 83 of Regulation (EU) 2023/1114;

- (vi) information about the organisational structure, operational conditions and compliance with the requirements set out in Title V of Regulation (EU) 2023/1114, including:
 - (1) the programme of operations setting out the types of crypto-asset services provided, including where and how those services are marketed, pursuant to Article 62(2), point (d), of Regulation (EU) 2023/1114;
 - (2) information about the governance arrangements and internal control mechanisms pursuant to Article 62(2), points (f) and (i) of Regulation (EU) 2023/1114;
 - (3) information concerning compliance with Articles 67, 68 and 70 of Regulation (EU) 2023/1114, including risk-management and accounting procedures;
 - (4) where available, the number of clients established or situated in a given Member State to which the crypto-asset service provider is providing services, the value of the crypto-assets managed or held for those clients, and the volumes of transactions executed for those clients;
 - (5) information about any situations in which a crypto-asset service provider is suspected of not complying with the requirements set out in Title V of Regulation (EU) 2023/1114, together with an explanation of the consequent measures taken or planned by the competent authority;
- (b) information relating to the records kept by crypto-asset service providers in accordance with Articles 68(9) and 76(15) of Regulation (EU) 2023/1114;
- (c) information about the authorisation as a crypto-asset service provider, including where the authorisation was refused or the application for authorisation was retracted, and information on any withdrawal of the authorisation pursuant to Article 64 of Regulation (EU) 2023/1114;
- (d) information on any penalty issued pursuant to Regulation (EU) 2023/1114, including criminal penalties, administrative measures or enforcement actions in relation to a crypto-asset service provider;
- (e) any other information necessary for cooperation among competent authorities in investigation, supervision and enforcement activities pursuant to Article 95(1) of Regulation (EU) 2023/1114.

Article 5

Information to be exchanged in relation to the prevention and prohibition of market abuse involving crypto-assets

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange information concerning suspicions of insider dealing as referred to in Article 89 of Regulation (EU)

¹²⁴ Commission Delegated Regulation (EU) 2025/414 of 18 December 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in a crypto-asset service provider (OJ L, 2025/414, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/414/oj).

2023/1114, of unlawful disclosure of inside information as referred to in Article 90 of Regulation (EU) 2023/1114, or of market manipulation as referred to in Article 91 of Regulation (EU) 2023/1114, including:

- (a) records of crypto-asset services, activities, orders and transactions undertaken by crypto-asset service providers kept pursuant to Article 68(9) of Regulation (EU) 2023/1114;
- (b) data relating to all orders in crypto-assets advertised through the systems of a crypto-asset service provider operating a trading platform kept pursuant to Article 76(15) of Regulation (EU) 2023/1114;
- (c) reports of suspicious orders or transactions as referred to in Article 92(1) of Regulation (EU) 2023/1114;
- (d) any relevant indications or evidence supporting such suspicions;
- (e) any other information necessary for cooperating in investigation, supervision and enforcement activities relating to Title VI of Regulation (EU) 2023/1114.

Article 6

Information to be exchanged in relation to precautionary measures

Where necessary for the purpose of investigation, supervision and enforcement, competent authorities shall exchange information in relation to precautionary measures as referred to in Article 102 of Regulation (EU) 2023/1114, including:

- (a) information on any suspicions of irregularities in the activities of an offeror or person seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens, an issuer of an asset referenced token or e-money token, or a crypto-asset service provider;
- (b) information on any precautionary measures planned or taken in accordance with Article 102(2) of Regulation (EU) 2023/1114;
- (c) any other information necessary for cooperating in the adoption of precautionary measures.

Article 7

Entry into force

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

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

Done at Brussels, 10 October 2024.

APPENDIX 13: COMMISSION DELEGATED REGULATION (EU) 2025/303
of 31 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
information to be included by certain financial entities in the notification of
their intention to provide crypto-asset services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹²⁵, and in particular Article 60(13), third subparagraph, thereof,

Whereas:

- (1) To enable competent authorities to assess whether certain financial entities that intend to provide crypto-asset services meet the applicable requirements laid down in Title V and, where relevant, Title VI of Regulation (EU) 2023/1114, the information to be notified by certain financial entities of their intention to provide crypto-asset services should be sufficiently detailed and comprehensive without imposing undue burden.
- (2) In accordance with Article 60(7), point (a) of Regulation (EU) 2023/1114, a notification of the intention to provide crypto-asset services is to contain a programme of operations. In order to provide a full picture of the operations the notifying entity intends to undertake, the programme of operations should comprise a description of the notifying entity's organisational structure, their strategy in providing crypto-asset services to their targeted clients, and their operational capacity for the 3 years following the date of notification. Regarding the strategy used to target clients, the notifying entity should describe the marketing means that it intends to use, such as websites, mobile phone applications, face-to-face meetings, press releases, or any form of physical or electronic means, including social media campaign tools, internet advertisements or banners, retargeting of advertising, agreements with influencers, sponsorships agreements, calls, webinars, invitations to events, affiliation campaigns, gamification techniques, invitations to fill in a response form or to follow a training course, demo accounts or educational materials.
- (3) To enable competent authorities to assess the notifying entity's resilience to withstand external financial shocks, including those concerning the value of crypto-assets, the notifying entity should include in their notification stress scenarios simulating severe but plausible events in their forecast accounting plan.
- (4) To avoid outages of operations as they can have major financial, regulatory and reputational consequences for the notifying entity and more generally, crypto-asset markets in general, it is critical to maintain operations or at least essential functions of crypto-asset service providers and to minimise downtime due to unexpected disruptions, including cyberattacks and natural disasters. A notification should therefore contain detailed information on the notifying entity's arrangements to ensure continuity and regularity in

¹²⁵ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

the provision of crypto-asset services, including a detailed description of its risks and business continuity plans.

- (5) Effective mechanisms, systems and procedures that comply with Directive (EU) 2015/849 of the European Parliament and of the Council¹²⁶ are needed to ensure that notifying entities appropriately address risks and practices of money laundering and terrorist financing in the provision of crypto-asset services. Notifying entities should therefore provide in their notification detailed information on their mechanisms, systems and procedures put in place to prevent risks associated with their business activities in relation to, inter alia, anti-money laundering and counter-terrorist financing.
- (6) Due to the decentralised and digital nature of crypto-assets, cybersecurity risks for crypto-asset service providers are significant and take many forms. To ensure that the notifying entity is able to prevent data breaches and financial losses that could be caused by cyberattacks, the information on the notifying entity's deployed ICT systems and related security arrangements such as identity and geographical location of the providers, description of the outsourced activities or ICT services with their main characteristics, copy of contractual agreements, as referred to in Article 60(7), point (c), of Regulation (EU) 2023/1114, should include the human resources dedicated to addressing cybersecurity risks.
- (7) The segregation of clients' crypto-assets and funds protects clients from losses of the crypto-asset service provider and from misuse of their crypto-assets and funds. Article 70 of Regulation (EU) 2023/1114 therefore requires crypto-asset service providers to make adequate arrangements to safeguard the ownership rights of clients. That requirement also applies to crypto-asset service providers that do not provide custody and administration services.
- (8) To enable competent authorities to assess the adequacy of the notifying entity's operating rules for their trading platforms for crypto-assets, the notifying entity should detail specific elements in the description of those rules. In particular, the notifying entity should elaborate on aspects of the operating rules relating to the admission to trading, the trading and the settlement of crypto-assets. As regards the admission to trading of crypto-assets, notifying entities should provide detailed information on the way in which the admitted crypto-assets comply with the notifying entity's rules, on the types of crypto-assets that the notifying entity will not admit to trading on its trading platform and the reasons for such exclusions, and on the fees for the admission to trading. As regards the trading of crypto-assets, the notifying entity should specify the elements of the operating rules governing the execution and cancellation of orders, orderly trading, transparency and record-keeping. Finally, the notifying entity should include in the description of the operating rules the elements governing the settlement of transactions in crypto-assets on the trading platform, including whether the settlement is initiated by using distributed ledger technology (DLT), the timeframe in which the execution is initiated, the definition of the moment when the settlement is final, all verifications required to ensure the effective settlement of the transaction and any measure to limit settlement failures.
- (9) To allow for competent authorities to assess the adequacy of the notifying entity in providing certain crypto-asset services such as exchange of crypto-assets for funds or other crypto-assets, execution, the provision of advice on crypto-assets or portfolio management of crypto-assets and transfer services, the notifying entity should specify the details of how these crypto-asset services will be provided as well as the

¹²⁶ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73, ELI: <http://data.europa.eu/eli/dir/2015/849/oj>).

arrangements put in place to ensure that the notifying entity complies with the relevant provisions of Regulation (EU) 2023/1114 with regards to the provision of those crypto-asset services.

- (10) Any processing of personal data under this Regulation shall comply with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council¹²⁷.
- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA) and developed in close cooperation with the European Banking Authority.
- (12) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹²⁸.
- (13) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹²⁹ and delivered formal comments on 21 June 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Programme of operations

1. For the purposes of Article 60(7), point (a), of Regulation (EU) 2023/1114, the notifying entity shall provide to the competent authority the programme of operations for the 3 years following the date of notification, including the following information:
 - (a) where the notifying entity belongs to a group as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council¹³⁰, an explanation of how the activities of the notifying entity fit within that group strategy and interact with the activities of the other entities of that group, including an overview of the current and planned organisation and structure of that group;
 - (b) an explanation of how the activities of the entities affiliated with the notifying entity, including where there are regulated entities in the group, is expected to impact the activities of the notifying entity, including a

¹²⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

¹²⁸ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

¹²⁹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI <http://data.europa.eu/eli/reg/2018/1725/oj>).

¹³⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

list of and information on the entities affiliated with the notifying entity, and where there are regulated entities, the services provided by these entities and the domain names of each website operated by such entities;

- (c) a list of crypto-asset services that the notifying entity intends to provide and the types of crypto-assets to which the crypto-asset services will relate;
- (d) other planned activities, regulated in accordance with Union or national law or unregulated, including any other services than crypto-asset services, that the notifying entity intends to provide;
- (e) whether the notifying entity intends to offer crypto-assets to the public or seeks admission to trading of crypto-assets and if so, what type of crypto-assets;
- (f) a list of jurisdictions, both in the Union and in third countries, in which the notifying entity plans to provide crypto-asset services, including information on the targeted number of clients by geographical area;
- (g) types of prospective clients targeted by the notifying entity's crypto-asset services;
- (h) a description of the means of access to the notifying entity's crypto-asset services by clients, including all of the following:
 - (i) the domain names for each website or other ICT-based application through which the crypto-asset services will be provided by the notifying entity and information on the languages in which the website or other ICT-based application will be available, the types of crypto-asset services that will be accessed through that website or other ICT-based application and, where applicable, from which Member States the website or other ICT-based application will be accessible;
 - (ii) the name of any ICT-based application available to clients to access the crypto-asset services, the languages in which that ICT-based application is available and the crypto-asset services which can be accessed through that ICT-based application;
- (i) the planned marketing and promotional activities and arrangements for the crypto-asset services, including the following:
 - (i) all means of marketing to be used for each of the services;
 - (ii) the intended means of identification of the notifying entity;
 - (iii) information on the relevant category of clients targeted;
 - (iv) types of crypto-assets;
 - (v) languages that will be used for the marketing and promotional activities;
- (j) a detailed description of the human, financial and ICT resources allocated to the intended crypto-asset services, and their geographical location;
- (k) the notifying entity's outsourcing policy and how it was adapted to crypto-asset services as well as a detailed description of the notifying entity's planned outsourcing arrangements, including intra-group arrangements, and the way that the notifying entity will comply with Article 73 of Regulation (EU) 2023/1114, including information on the function or person responsible for outsourcing, the human and

ICT resources allocated to the control of the outsourced functions, services or activities of the related arrangements and on the risk assessment related to the outsourcing;

- (l) the list of entities that will provide outsourced services for the provision of crypto-asset services, their geographical location and the relevant services outsourced;
- (m) a forecast accounting plan including stress scenarios at an individual and, where applicable, at a consolidated group and sub-consolidated level in accordance with Directive 2013/34/EU, taking into consideration any intra-group loans granted or to be granted by and to the notifying entity;
- (n) any exchange of crypto-assets for funds and other crypto-asset activities that the notifying entity intends to undertake, including through any decentralised finance applications with which the notifying entity intends to interact on its own account.

2. Where the notifying entity intends to provide the service of reception and transmission of orders for crypto-assets on behalf of clients, it shall provide to the competent authority a copy of the procedures and a description of the arrangements ensuring compliance with Article 80 of Regulation (EU) 2023/1114.

3. Where the notifying entity intends to provide the service of placing of crypto-assets, it shall provide to the competent authority a copy of procedures to identify, prevent, manage and disclose conflicts of interests and a description of the arrangements in place to comply with Article 79 of Regulation (EU) 2023/1114 and Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114.

Article 2

Business continuity plan

1. For the purposes of Article 60(7), point (b) (iii), of Regulation (EU) 2023/1114, the notifying entity shall submit to the competent authority a detailed description of its business continuity plan, including the steps to be taken to ensure continuity and regularity in the provision of its crypto-asset services.
2. The description referred to in paragraph 1 shall include the following:
 - (a) details showing that the established business continuity plan is appropriate and that arrangements are set up to maintain and periodically test that plan;
 - (b) with regard to critical or important functions supported by third-party service providers, details on how business continuity is ensured in the event that the quality of the provision of such functions deteriorates to an unacceptable level or fails;
 - (c) information on how business continuity is ensured in the event of the death of a key person and, where relevant, political risks in the service provider's jurisdictions.

Article 3

Detection and prevention of money laundering and terrorist financing

For the purposes of Article 60(7), point (b)(i) and (ii), of Regulation (EU) 2023/1114, the notifying entity shall provide the competent authority with information on its internal control mechanisms, policies and procedures to ensure compliance with the provisions of national law transposing Directive (EU) 2015/849 and on the risk

assessment framework to manage risks relating to money laundering and terrorist financing, including the following:

- (a) the notifying entity's assessment of the inherent and residual risks of money laundering and terrorist financing associated with its provision of crypto-asset services, including the risks relating to:
 - (i) the notifying entity's customer base;
 - (ii) the services provided;
 - (iii) the distribution channels used;
 - (iv) the geographical areas of operation;
- (b) the measures that the notifying entity has or will put in place to prevent the identified risks and comply with applicable anti-money laundering and counter-terrorist financing requirements, including the notifying entity's risk assessment process, the policies and procedures to comply with customer due diligence requirements, and the policies and procedures to detect and report suspicious transactions or activities;
- (c) detailed information on how internal control mechanisms, policies and procedures are adequate and proportionate to the scale, nature, inherent risk of money laundering and terrorist financing, including the range of crypto-asset services provided, the complexity of the business model and how the notifying entity ensures its compliance with Directive (EU) 2015/849 and Regulation (EU) 2023/1113 of the European Parliament and of the Council¹³¹;
- (d) the identity of the person in charge of ensuring the notifying entity's compliance with anti-money laundering and counter-terrorist financing requirements, including evidence of that person's skills and expertise;
- (e) arrangements, human and financial resources devoted to ensure, based on annual indications, that staff of the notifying entity is appropriately trained in anti-money laundering and counter-terrorist financing matters and on specific crypto-asset related risks;
- (f) a copy of the notifying entity's anti-money laundering and counter-terrorism policies, procedures and systems;
- (g) a summary document outlining changes that have been made to the notifying entity's anti-money laundering and counter-terrorism procedures and systems as a consequence of the planned crypto-asset services;
- (h) the frequency of the assessment of the adequacy and effectiveness of the internal control mechanisms, systems and procedures, including the identity of the person or function responsible for such assessment.

Article 4

ICT systems and related security arrangements

¹³¹ Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.6.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/1113/oj>).

For the purposes of Article 60(7), point (c), of Regulation (EU) 2023/1114, the notifying entity shall provide the competent authority the following information:

- (a) technical documentation of the ICT systems, DLT infrastructure relied upon, where relevant, and the security arrangements, including a description of the arrangements and deployed ICT and human resources established to comply with Regulation (EU) 2022/2554 of the European Parliament and of the Council¹³² including the following:
 - (i) a description of how the notifying entity ensures a sound, comprehensive and well-documented ICT risk management framework as part of its overall risk management system, including a detailed description of ICT systems, protocols and tools and of how the notifying entity's procedures, policies and systems will safeguard the security, integrity, availability, authenticity and confidentiality of data in accordance with Regulations (EU) 2022/2554 and (EU) 2016/679;
 - (ii) an identification of ICT services supporting critical or important functions, developed or maintained by the notifying entity, as well as those provided by third-party service providers, a description of such contractual arrangements and how those arrangements comply with Article 73 of Regulation (EU) 2023/1114 and Chapter V of Regulation (EU) 2022/2554;
 - (iii) a description of the notifying entity's procedures, policies, arrangements and systems for security and incident management;
- (b) if available, a description of a cybersecurity audit conducted by a third-party cybersecurity auditor having sufficient experience in accordance with Commission Delegated Regulation establishing technical standards pursuant to Article 26(11) fourth subparagraph of Regulation (EU) 2022/2554 covering ideally the following audits or tests by external independent parties:
 - (i) organisational cybersecurity, physical security and secure software development lifecycle arrangements;
 - (ii) vulnerability assessments and network security assessments;
 - (iii) configuration reviews of ICT assets supporting critical and important functions as defined in Article 3, point (22) of Regulation (EU) 2022/2554;
 - (iv) penetration tests on the ICT assets supporting critical and important functions as defined in Article 3, point (17) of Regulation (EU) 2022/2554, in accordance with all the following audit test approaches:
 - (1) black box: the auditor has no information other than the IP addresses and URLs associated with the audited target. This phase is generally preceded by the discovery of information and the identification of the target by querying domain name system (DNS) services, scanning open ports, discovering the presence of filtering equipment;
 - (2) grey box phase: auditors have the knowledge of a standard user of the information system (legitimate authentication, 'standard' workstation). The identifiers can belong to different user profiles in order to test different privilege levels;

¹³² Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2554/oj>).

- (3) white box phase: auditors have as much technical information as possible (architecture, source code, telephone contacts, identifiers, etc.) before starting the analysis and also access to technical contacts related to the target;
 - (v) where the notifying entity uses and/or develops smart-contracts, a cybersecurity source code review of them;
- (c) a description of conducted audits of the ICT systems, if any, including used DLT infrastructure and security arrangements;
- (d) a description of the relevant information referred to in points (a) and (b) in non-technical language.

Article 5

Segregation and safekeeping of clients' crypto-assets and funds

1. For the purposes of Article 60(7), point (d), of Regulation (EU) 2023/1114, the notifying entity that intends to hold crypto-assets belonging to clients or the means of access to such crypto-assets, or clients' funds other than e-money tokens, shall provide to the competent authority a detailed description of its procedures for the segregation of clients' crypto-assets and funds, including the following:
 - (a) how the notifying entity ensures the following:
 - (i) clients' funds are not used for its own account;
 - (ii) crypto-assets belonging to the clients are not used for its own account;
 - (iii) the wallets holding clients' crypto-assets are different from the notifying entity's own wallets;
 - (b) a detailed description of the approval system for cryptographic keys and safeguarding of cryptographic keys including multi-signature wallets;
 - (c) how the notifying entity segregates clients' crypto-assets, including from other clients' crypto-assets where wallets containing crypto-assets of more than one client, are kept in omnibus accounts;
 - (d) a description of the procedure ensuring that clients' funds other than e-money tokens are deposited with a central bank or a credit institution by the end of the business day following the day on which they were received and are held in an account separately identifiable from any accounts used to hold funds belonging to the notifying entity;
 - (e) where the notifying entity does not intend to deposit funds with the relevant central bank, which factors the notifying entity takes into account to select the credit institutions with which to deposit clients' funds, including the notifying entity's diversification policy, where available, and the frequency of review of the selection of credit institutions with which to deposit clients' funds;
 - (f) how the notifying entity ensures that clients are informed in clear, concise and non-technical language about the key aspects of the notifying entity's systems, policies and procedures to comply with Article 70(1), (2) and (3) of Regulation (EU) 2023/1114.
2. In accordance with Article 70(5) of Regulation (EU) 2023/1114, crypto-asset service providers that are electronic money institutions or credit institutions shall only provide the information set out in paragraph 1 of this Article.

*Article 6***Custody and administration policy**

For the purposes of Article 60(7), point (e), of Regulation (EU) 2023/1114, the notifying entity shall provide to the competent authority the following information:

- (a) a description of the arrangements linked to the type of custody offered to clients, a copy of the notifying entity's standard agreement for the custody and administration of crypto-assets on behalf of clients pursuant to Article 75(1) of Regulation (EU) 2023/1114 and a copy of the summary of the custody policy made available to clients in accordance with Article 75(3) third subparagraph of that Regulation;
- (b) the notifying entity's custody and administration policy, including a description of identified sources of operational and ICT risks for the safekeeping and control of the crypto-assets or the means of access to the crypto-assets of clients, together with the following:
 - (i) the policies and procedures, and a description of the arrangements to comply with Article 75(8) of Regulation (EU) 2023/1114;
 - (ii) the policies and procedures, and a description of the systems and controls, to manage the operational and ICT risks, including where the custody and administration of crypto-assets on behalf of clients is outsourced to a third party;
 - (iii) the policies and procedures relating to, and a description of, the systems to ensure the exercise of the rights attached to the crypto-assets by the clients;
 - (iv) the policies and procedures relating to, and a description of, the systems ensuring the return of crypto-assets or the means of access to the clients;
- (c) information on how the crypto-assets and the means of access to the crypto-assets of the clients are identified;
- (d) information on arrangements to minimise the risk of loss of crypto-assets or means of access to crypto-assets;
- (e) where the crypto-asset service provider has delegated the provision of custody and administration of crypto-assets on behalf of clients to a third-party:
 - (i) information on the identity of any third-party providing the service of custody and administration of crypto-assets and its status in accordance with Article 59 or Article 60 of Regulation (EU) 2023/1114;
 - (ii) a description of any functions relating to the custody and administration of crypto-assets delegated by the crypto-asset service provider, the list of any delegates and sub-delegates, as applicable, and any conflict of interest that could arise from such a delegation;
 - (iii) a description of how the notifying entity intends to supervise the delegations or sub-delegations.

*Article 7***Operating rules of the trading platform and market abuse detection**

1. For the purposes of Article 60(7), point (f), of Regulation (EU) 2023/1114, the notifying entity that intends to operate a trading platform for crypto-assets shall provide to the competent authority the following information:

- (a) the rules on the admission of crypto-assets to trading;
- (b) the approval process for admitting crypto-assets to trading, including the customer due diligence carried out in accordance with Directive (EU) 2015/849;
- (c) the list of any categories of crypto-assets that will not be admitted to trading and the reasons for such exclusion;
- (d) the policies, procedures and fees for the admission to trading, together with a description, where relevant, of membership, rebates and the related conditions;
- (e) the rules governing order execution, including any cancellation procedures for executed orders and for disclosing such information to market participants;
- (f) the methods put in place to assess the suitability of crypto-assets in accordance with Article 76(2) of Regulation (EU) 2023/1114;
- (g) the systems, procedures and arrangements put in place to comply with Article 76(7) of Regulation (EU) 2023/1114;
- (h) the manner of making public any bid and ask prices, the depth of trading interests at those prices that are advertised for crypto-assets through their trading platform and price, volume and time of transactions executed in respect of crypto-assets traded on their trading platform, in accordance with Article 76(9) and (10) of Regulation (EU) 2023/1114;
- (i) the fee structures and a justification on how those structures comply with Article 76(13) of Regulation (EU) 2023/1114;
- (j) the systems, procedures and arrangements put in place to keep data relating to all orders at the disposal of the competent authority or the mechanism to ensure that the competent authority has access to the order book and any other trading system;
- (k) with regards to the settlement of transactions:
 - (i) whether the final settlement of transactions is initiated on the distributed ledger or outside the distributed ledger;
 - (ii) the timeframe within which the final settlement of crypto-asset transactions is initiated;
 - (iii) the way to verify the availability of funds and crypto-assets;
 - (iv) the way to confirm the relevant details of transactions;
 - (v) the measures foreseen to limit settlement fails;
 - (vi) the moment at which settlement is final and the moment at which final settlement is initiated following the execution of the transaction;

- (l) the procedures and systems put in place to detect and prevent market abuse, including information on the communications to the competent authority of possible market abuse cases.
2. Notifying entities intending to operate a trading platform for crypto-assets shall provide to the competent authority a copy of the operating rules of the trading platform and of any procedures to detect and prevent market abuse.

Article 8

Exchange of crypto-assets for funds or other crypto-assets

For the purposes of Article 60(7), point (g), of Regulation (EU) 2023/1114, the notifying entity that intends to exchange crypto-assets for funds or other crypto-assets shall provide to the competent authority the following information:

- (a) a description of the commercial policy established in accordance with Article 77(1) of Regulation (EU) 2023/1114;
- (b) the method for determining the price of the crypto-assets that the notifying entity proposes to exchange for funds or other crypto-assets in accordance with Article 77(2) of Regulation (EU) 2023/1114, including how the volume and market volatility of crypto-assets impact the pricing mechanism.

Article 9

Execution policy

For the purposes of Article 60(7), point (h), of Regulation (EU) 2023/1114, the notifying entity that intends to execute orders for crypto-assets on behalf of clients shall provide to the competent authority its execution policy, including the following information:

- (a) the arrangements ensuring that the client has provided consent on the execution policy prior to the execution of the order;
- (b) a list of the trading platforms for crypto-assets on which the notifying entity will rely for the execution of orders and the criteria for the assessment of execution venues included in the execution policy in accordance with Article 78(6) of Regulation (EU) 2023/1114;
- (c) which trading platforms the notifying entity intends to use for each type of crypto-assets and confirmation that the notifying entity will not receive any form of remuneration, discount or non-monetary benefit in return for routing orders received to a particular trading platform for crypto-assets;
- (d) how the execution takes into account price, costs, speed, likelihood of execution and settlement, size, nature, conditions of custody of the crypto-assets or any other relevant factors that are considered as part of all necessary steps to obtain the best possible result for the client;
- (e) where applicable, the arrangements for informing clients that the notifying entity will execute orders outside a trading platform and how the notifying entity will obtain the prior express consent of its client before executing such orders;
- (f) how the client is being warned that any specific instructions from a client may prevent the notifying entity from taking the necessary steps, in line with the arrangements that the notifying entity has established and

implemented in its execution policy, to obtain the best possible result for the execution of those orders in respect of the elements covered by those instructions;

- (g) the selection process for trading venues, execution strategies employed, the arrangements used to analyse the quality of execution obtained and how the notifying entity monitors and verifies that the best possible results were obtained for clients;
- (h) the arrangements to prevent the misuse of any information relating to clients' orders by the employees of the notifying entity;
- (i) the arrangements and procedures for how the notifying entity will disclose to clients information on its order execution policy and notify them of any material changes to their order execution policy;
- (j) the arrangements to demonstrate compliance with Article 78 of Regulation (EU) 2023/1114 to the competent authority, upon the request of that competent authority.

Article 10

Provision of advice on crypto-assets or portfolio management of crypto-assets

For the purposes of Article 60(7), point (i), of Regulation (EU) 2023/1114, the notifying entity that intends to provide advice on crypto-assets or portfolio management of crypto-assets shall provide to the competent authority the following information:

- (a) a detailed description of the arrangements put in place by the notifying entity to ensure compliance with Article 81(7) of Regulation (EU) 2023/1114, including the following:
 - (i) the mechanisms to control, assess and maintain effectively the knowledge and expertise of the natural persons providing advice on crypto-assets or managing portfolios of crypto-assets;
 - (ii) the arrangements ensuring that natural persons involved in the provision of advice or portfolio management are aware of, understand and apply the notifying entity's internal policies and procedures established to comply with Regulation (EU) 2023/1114, in particular with Article 81(1) of that Regulation and with Directive (EU) 2015/849;
 - (iii) the amount of human and financial resources planned to be devoted on a yearly basis by the notifying entity to the professional development and training of the staff providing advice on crypto-assets or managing portfolios of crypto-assets;
- (b) the mechanisms to control, assess and maintain that the natural persons giving advice on behalf of the notifying entity have the necessary knowledge and expertise, according to the criteria for such assessment used in national legislation, to assess the suitability as referred to in Article 81(1) of Regulation (EU) 2023/1114.

Article 11

Transfer services

For the purposes of Article 60(7), point (k), of Regulation (EU) 2023/1114, the notifying entity that intends to provide transfer services for crypto-assets on behalf of clients shall provide to the competent authority the following information:

- (a) details on the types of crypto-assets for which the notifying entity intends to provide transfer services;
- (b) a detailed description of the arrangements put in place by the notifying entity to comply with Article 82 of Regulation (EU) 2023/1114, including detailed information on the notifying entity's arrangements and deployed ICT and human resources to address risks promptly, efficiently and thoroughly during the provision of transfer services for crypto-assets on behalf of clients, taking into account potential operational failures and cybersecurity risks;
- (c) where available, a description of the notifying entity's insurance policy, including on the insurance's coverage of detriment to client's crypto-assets that may result from cyber security risks;
- (d) arrangements to ensure that clients are adequately informed about the arrangements referred to in point (b).

Article 12

Entry into force

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

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

Done at Brussels, 31 October 2024.

APPENDIX 14: COMMISSION DELEGATED REGULATION (EU) 2025/305
of 31 October 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
information to be included in an application for authorisation as a crypto-
asset service provider

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹³³, and in particular Article 62(5), third subparagraph, thereof,

Whereas:

- (1) To enable competent authorities to assess whether legal persons or other undertakings seeking authorisation as a crypto-asset service provider in accordance with Article 62 of Regulation (EU) 2023/1114 ('applicants') meet the applicable requirements laid down in Title V and, where relevant, Title VI of that Regulation, the information to be provided in an application for authorisation as crypto-asset service provider submitted in accordance with Article 62(1) of that Regulation ('application for authorisation') should be sufficiently detailed and comprehensive without imposing undue burden.
- (2) The application for authorisation should contain data about the identity of the applicant, the governance arrangements and internal control mechanisms, the suitability of the members of the management body and the sufficiently good repute of the shareholders or members with qualifying holdings. In compliance with the principle of data minimisation as expressed in Article 5(1), point (c) of Regulation (EU) 2016/679 of the European Parliament and of the Council¹³⁴, such information should be sufficient to enable competent authorities to carry out a comprehensive assessment of applicants, and of their ability to comply with the relevant requirements of Regulation (EU) 2023/1114. Furthermore, that information should be sufficient to enable competent authorities to verify that there are no objective and demonstrable grounds for refusal of the authorisation as referred to in Article 63(10), points (a) to (d), of that Regulation.
- (3) To ensure that the competent authorities' assessment is based on accurate information, applicants should provide copies of their corporate documents, including their legal entity identifier, the articles of association, a copy of their registration in the national register of companies and, where applicants intend to operate a trading platform, the commercial name used.
- (4) In accordance with Article 62(2), point (d), of Regulation (EU) 2023/1114 an application for authorisation is to contain a programme of operations. That programme should specify the applicants' organisational

¹³³ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹³⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

structure, strategy in providing crypto-asset services to their targeted clients and their operational capacity for 3 years following authorisation. When specifying the strategy used to target clients, for transparency reasons the applicants should describe the marketing means that they intend to use, including websites, mobile phone applications, face-to-face meetings, press releases, or any form of physical or electronic means, including social media campaign tools, internet advertisements or banners, retargeting of advertising, agreements with influencers, sponsorships agreements, calls, webinars, any invitation to an event, affiliation campaign, gamification techniques, invitation to fill in a response form or to follow a training course, demo accounts or educational materials.

- (5) To enable competent authorities to assess the applicants' resilience to withstand external financial shocks, including those concerning the value of crypto-assets, applicants should include in their application for authorisation stress scenarios simulating severe but plausible events in its forecast calculations and plans to determine their own funds.
- (6) Clients are exposed to potential risks related to the crypto-asset service providers. To enable competent authorities to assess whether applicants meet the prudential requirements set out in Article 67 of Regulation (EU) 2023/1114 to protect clients against such risks, an application for authorisation should contain information specifying the applicant's prudential safeguards.
- (7) To ensure that crypto-asset service providers comply with their obligations laid down in Regulation (EU) 2023/1114, applicants should demonstrate that they have adequate and robust governance arrangements and internal control mechanisms, including arrangements and mechanisms that are essential to the sound and prudent management of crypto-asset service providers.
- (8) In the financial services system, time is essential. To avoid outages as they can have major financial, regulatory and reputational consequences for the crypto-asset service providers and crypto-asset markets in general, it is critical to maintain operations or at least essential functions of crypto-asset service providers and to minimise downtime due to unexpected disruptions, including cyberattacks and natural disasters. An application for authorisation should thus contain detailed information on the applicant's arrangements to ensure continuity and regularity in the provision of crypto-asset services, including a detailed description of its risks and business continuity plans.
- (9) Effective mechanisms, systems and procedures that comply with Directive (EU) 2015/849 of the European Parliament and of the Council¹³⁵ and Regulation (EU) 2023/1113 of the European Parliament and of the Council¹³⁶ are needed to ensure that applicants appropriately address risks and practices of money laundering and terrorist financing in the provision of crypto-asset services. Thus, applicants should provide in their application for authorisation detailed information on their mechanisms, systems and procedures put in place to prevent risks associated with their business activities in relation to, inter alia, anti-money laundering and counter-terrorist financing.
- (10) In accordance with Article 62(2), point (g), of Regulation (EU) 2023/1114, an application for authorisation is to contain proof that the members of the management body are of sufficiently good repute and possess the appropriate knowledge, skills and experience to manage that crypto-asset service provider. In

¹³⁵ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73, ELI <http://data.europa.eu/eli/dir/2015/849/oj>).

¹³⁶ Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.6.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/1113/oj>).

particular, applicants should provide competent authorities with all information about past criminal convictions and with information on pending criminal investigations, civil and administrative cases, penalties, enforcement actions and other adjudicatory proceedings of the members of the management body relating to commercial law, insolvency law, anti-money laundering, counter-terrorist financing, fraud, professional liability. To provide competent authorities with adequate information on the good reputation of the members of the management body, applicants should provide the information for those cases directly concerning the member or concerning an organisation of which the member held a position as member of the management body, shareholder or member with qualifying holdings or a key function holder. To ensure that competent authorities receive sufficient information on refusals or withdrawals of, inter alia, registrations, authorisations or memberships related to the applicants' provision of crypto-asset services, applicants should provide such information about any member of the management body. Furthermore, applicants should provide, for each member of the management body, relevant information to enable competent authorities to assess their professional knowledge, skills and experience in the scope of the position sought and a description of all financial and non-financial interests of the members of the management body that could create potential material conflicts of interest significantly affecting the members' trustworthiness in the performance of their mandate.

- (11) In respect of the requirement of good reputation of shareholders and members directly or indirectly holding qualifying holdings in applicant, the application for authorisation should contain all information about their past convictions and pending criminal investigations, civil and administrative cases and other adjudicatory proceedings, and relevant information relating to the certainty and legitimate origin of the funds used to set-up applicants and finance their business so to enable the assessment of any attempt or suspicion of money laundering or terrorist financing.
- (12) Due to the decentralised and digital nature of crypto-assets, cybersecurity risks for crypto-asset service providers are significant and take many forms. To ensure that applicants are able to prevent data breaches and financial losses that may be caused by cyberattacks, the information on the applicants' deployed ICT systems and related security arrangements, as referred to in Article 62(2), point (j), of Regulation (EU) 2023/1114, should include the human resources dedicated to addressing cybersecurity risks.
- (13) The segregation of clients' crypto-assets and funds protects clients from losses of the crypto-asset service provider and from misuse of their crypto-assets and funds. Article 70 of Regulation (EU) 2023/1114 therefore requires crypto-asset service providers to make adequate arrangements to safeguard the ownership rights of clients. That requirement also applies to crypto-asset service providers that do not provide custody and administration services. It is therefore important that the application for authorisation includes information on the segregation of clients' crypto-assets.
- (14) To enable competent authorities to assess the adequacy of applicants' operating rules of trading platforms for crypto-assets, applicant should detail specific elements in the description of those rules. In particular, applicants should elaborate on aspects of the operating rules relating to the admission to trading, the trading and the settlement of crypto-assets. As regards the admission to trading of crypto-assets, applicants should provide detailed information on rules governing the admission of crypto-assets to trading, the way in which the admitted crypto-assets comply with the applicants' rules, the types of crypto-assets that applicants will not admit to their trading platform and the reasons for such exclusions, and fees for the admission to trading. As regards the trading of crypto-assets, applicants should specify the elements of the operating rules governing the execution and cancellation of orders orderly trading, transparency and record-keeping. Finally, applicants should include in the description of the operating rules the elements governing the settlement of transactions of crypto-assets concluded on the trading platform, including whether the settlement is initiated in the Distributed Ledger Technology (DLT), the timeframe in which the execution is initiated, the definition of the moment when the settlement is final, all verifications required to ensure the effective settlement of the transaction, and any measure to limit settlement failures.

- (15) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority and developed in close cooperation with the European Banking Authority.
- (16) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹³⁷.
- (17) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹³⁸ and delivered formal comments on 21 June 2024,

HAS ADOPTED THIS REGULATION:

Article 1

General information

Legal persons or other undertakings seeking authorisation as a crypto-asset service provider in accordance with Article 62 of Regulation (EU) 2023/1114 ('applicants') shall include in their application for authorisation all the following information:

- (a) the legal name, telephone number and email address of the applicant;
- (b) any commercial or trading name used or to be used by the applicant;
- (c) the legal entity identifier (LEI) of the applicant;
- (d) the full name, function, email address and telephone number of the designated contact point or person;
- (e) the legal form of the applicant as referred to in Article 62(2), point (b) of Regulation (EU) 2023/1114, including information on whether the applicant is a legal person or other undertaking, and, where available, national identification number of the applicant, and evidence of its registration with the national register of companies;
- (f) date and Member State of the applicant's incorporation or foundation;
- (g) where applicable, the instruments of constitution, the articles of association as referred to in Article 62(2), point (c), of Regulation (EU) 2023/1114 and by-laws;
- (h) the address of the head office and, where different, of the registered office of the applicant;

¹³⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI <http://data.europa.eu/eli/reg/2010/1095/oj>).

¹³⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI <http://data.europa.eu/eli/reg/2018/1725/oj>).

- (i) information on where the branches will operate, if any, and their legal entity identifiers (LEI), where available;
- (j) the domain name of each website operated by the applicant and the social media accounts of that applicant;
- (k) where the applicant is not a legal person, documentation to assess whether:
 - (i) the level of protection of third parties interests and the rights of the holders of crypto-assets, including in case of insolvency, is equivalent to protection afforded by legal persons;
 - (ii) the applicant is subject to equivalent prudential supervision appropriate to its legal form;
- (l) where the applicant intends to operate a trading platform for crypto-assets:
 - (i) the physical address, telephone number and email address of the trading platform for crypto-assets;
 - (ii) any commercial name of the trading platform for crypto-assets.

Article 2

Programme of operations

1. For the purposes of Article 62(2), point (d), of Regulation (EU) 2023/1114, applicants shall provide to the competent authority the programme of operations for 3 years following the authorisation, including all the following information:
 - (a) where the applicant belongs to a group as defined in Article 2, point 11, of Directive 2013/34/EU of the European Parliament and of the Council¹³⁹, an explanation of how the activities of the applicant fit within the group strategy and interact with the activities of the other entities of that group, including an overview of the current and planned organisation and structure of that group;
 - (b) an explanation of how the activities of the entities affiliated with the applicant, including where there are regulated entities in the group, is expected to impact the activities of the applicant;
 - (c) a list of crypto-asset services that the applicant intends to provide and the types of crypto-assets to which the crypto-asset services relate;
 - (d) other planned activities, regulated in accordance with Union or national law or unregulated, including any services, other than crypto-asset services, that the applicant intends to provide;
 - (e) whether the applicant intends to offer crypto-assets to the public or seeks admission to trading of crypto-assets and if so, what type of crypto-assets;
 - (f) a list of jurisdictions, both in the Union and in third countries, in which the applicant plans to provide crypto-asset services, including information on the targeted number of clients by geographical area;

¹³⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

- (g) types of prospective clients targeted by the applicant's crypto-asset services;
- (h) a description of the means of access to the applicant's crypto-asset services by clients, including all of the following:
 - (i) the domain names for each website or other ICT-based application through which the crypto-asset services will be provided by the applicant and information on the languages in which the website or other ICT-based application will be available, the types of crypto-asset services that will be accessed through that website or other ICT-based application and, where applicable, from which Member States the website or other ICT-based application will be accessible;
 - (ii) the name of any ICT-based application available to clients to access the crypto-asset services, the languages in which that ICT-based application is available and the crypto-asset services which can be accessed through that ICT-based application;
- (i) the planned marketing and promotional activities and arrangements for the crypto-asset services, including:
 - (i) all means of marketing to be used for each of the services;
 - (ii) the intended means of identification of the applicant;
 - (iii) information on the relevant category of clients targeted;
 - (iv) types of crypto-assets;
 - (v) languages that will be used for the marketing and promotional activities;
- (j) a detailed description of the human, financial and ICT resources allocated to the intended crypto-asset services, and their geographical location;
- (k) the applicant's outsourcing policy and a detailed description of the applicant's planned outsourcing arrangements, including intra-group arrangements, and the way that the applicant will comply with Article 73 of Regulation (EU) 2023/1114;
- (l) the list of entities that will provide outsourced services, their geographical location and the relevant services outsourced;
- (m) a forecast accounting plan including stress scenarios at an individual and, where applicable, consolidated group and sub-consolidated level in accordance with Directive 2013/34/EU;
- (n) any exchange of crypto-assets for funds and other crypto-asset activities that the applicant intends to undertake, including through any decentralised finance applications with which the applicant intends to interact on its own account.

For the purposes of point (b), the explanation shall include a list of and information on the entities affiliated with the applicant, including where there are regulated entities, the services provided by those entities, including regulated services, activities and types of clients, and the domain names of each website operated by such entities.

For the purposes of point (k), the applicant shall include information on the functions or person responsible for outsourcing, human and ICT resources allocated to the control of the outsourced functions, services or activities of the related arrangements and on the risk assessment related to the outsourcing.

For the purposes of point (m), the financial forecast shall consider any intra-group loans granted or to be granted by and to the applicant.

2. Where applicants intend to provide the service of reception and transmission of orders for crypto-assets on behalf of clients, they shall provide to competent authorities a copy of the procedures and a description of the arrangements ensuring compliance with Article 80 of Regulation (EU) 2023/1114.

3. Where applicants intend to provide the service of placing of crypto-assets, they shall provide to competent authorities a copy of the procedures to identify, prevent, manage and disclose conflicts of interests and a description of the arrangements in place to comply with Article 79 of Regulation (EU) 2023/1114 and the Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114.

Article 3

Prudential requirements

For the purposes of Article 62(2), point (e), of Regulation (EU) 2023/1114, applicants shall provide to the competent authority all the following information:

- (a) a description of the applicant's prudential safeguards set out in Article 67 of Regulation (EU) 2023/1114, consisting of:
 - (i) the amount of the prudential safeguards at the time of the application for authorisation and the description of the assumptions used for calculation of that amount;
 - (ii) the amount of the prudential safeguards covered by own funds referred to in Article 67(4), point (a), of Regulation (EU) 2023/1114, where applicable;
 - (iii) the amount of the applicant's prudential safeguards covered by an insurance policy referred to in Article 67(4), point (b), of Regulation (EU) 2023/1114, where applicable;
- (b) forecast calculations and plans to determine own funds, including:
 - (i) forecast calculation of the applicant's prudential safeguards for the first 3 business years following the authorisation;
 - (ii) planning assumptions including stress scenarios for the forecast referred to in point (i) and explanations of the figures;
 - (iii) expected number and type of clients, volume of orders and transactions and volume of crypto assets under custody;
- (c) for undertakings or other legal persons that are already active, where available, the financial statements of the last 3 years approved, where audited, by external auditor;
- (d) a description of the applicant's prudential safeguards planning and monitoring procedures in accordance with Article 67(1) of Regulation (EU) 2023/1114;
- (e) proof that the applicant meets the prudential safeguards set out in Article 67 of Regulation (EU) 2023/1114, including:

- (i) in relation to own funds referred to in Article 67(4), point (a), of Regulation (EU) 2023/1114:
 - (1) documentation specifying how the applicant has calculated the amount of prudential safeguards in accordance with Article 67 of Regulation (EU) 2023/1114;
 - (2) for undertakings or other legal persons that are already active and whose financial statements are not audited, a certification by the national supervisor of the amount of own funds of the applicant;
 - (3) for undertakings in the process of being incorporated, a statement issued by a credit institution certifying that the funds are deposited in the applicant's account;
- (ii) in relation to the insurance policy or comparable guarantee referred to in Article 67(4), point (b) of Regulation (EU) 2023/1114:
 - (1) the legal name, the date and Member State of incorporation or foundation, the address of the head office and, where different, of the registered office and contact details of the undertaking authorised to provide the insurance policy or comparable guarantee;
 - (2) a copy of any of the following:
 - the subscribed insurance policy incorporating all the elements necessary to comply with Article 67(5) and (6) of Regulation (EU) 2023/1114, where available,
 - the insurance agreement incorporating all the elements necessary to comply with Article 67(5) and (6) of Regulation (EU) 2023/1114 signed by an undertaking authorised to provide insurance in accordance with Union or national law.

Article 4

Information about governance arrangements and internal control mechanisms and conflict of interests

1. For the purposes of Article 62(2), points (f) and (i), of Regulation (EU) 2023/1114 applicants shall provide to the competent authority the following information on their governance arrangements and internal control mechanisms:
 - (a) a detailed description of the organisational structure of the applicant, where relevant encompassing the group, including the indication of the distribution of the tasks and powers and the relevant reporting lines and the internal control arrangements implemented, together with an organisational chart;
 - (b) the personal details of the heads of internal functions (management, supervisory and internal control functions), including their location and a curriculum vitae, stating relevant education, professional training and professional experience and a description of the knowledge, skills and experience necessary for the discharge of the responsibilities allocated to those heads of internal functions;
 - (c) the policies and procedures that are sufficiently effective to ensure compliance with Regulation (EU) 2023/1114 in accordance with Article 68(4) of that Regulation and a detailed description of the arrangements ensuring that relevant staff are aware of the procedures to be followed for the proper discharge of their responsibilities, including a detailed description of the procedures for the applicant's staff to report potential or actual infringements of Regulation (EU) 2023/1114 in accordance with Article 116 of that Regulation;

- (d) a detailed description of the arrangements for keeping records of the business and internal organisation of the applicant in accordance with Article 68(9) of Regulation (EU) 2023/1114, including the applicant's record keeping arrangements in accordance with Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114;
 - (e) the arrangements enabling the management body to assess and periodically review the effectiveness of the policy arrangements and procedures put in place to comply with Title V, Chapters 2 and 3, of Regulation (EU) 2023/1114 in accordance with Article 68(6) of that Regulation, including all the following:
 - (i) identification of the internal control functions in charge of monitoring those policy arrangements and procedures, together with the scope of their responsibility and reporting lines to the management body of the applicant;
 - (ii) indication of the periodicity of internal control functions reporting to the management body of the applicant on the effectiveness of those policy arrangements and procedures;
 - (iii) explanation specifying:
 - (1) how the applicant ensures that the internal control functions operate independently and separately from the functions they control;
 - (2) whether the internal control functions have access to the necessary resources and information;
 - (3) whether those internal control functions can report directly to the management body of the applicant both at least once a year and on an ad hoc basis, including where they detect a significant risk of failure for the applicant to comply with its obligations under Regulation (EU) 2023/1114;
 - (iv) a description of the ICT systems, safeguards and controls put in place to monitor the activities of the applicant and to comply with Title V, Chapters 2 and 3, of Regulation (EU) 2023/1114, including back-up systems, and ICT systems and risk controls, where not provided in accordance with Article 9 of this Regulation;
 - (f) where relevant, a description of the arrangements put in place to prevent and detect market abuse in accordance with Article 92 of Regulation (EU) 2023/1114;
 - (g) whether the applicant has appointed or will appoint external auditors and, if that is the case, their name and contact details, where available;
 - (h) the accounting policies and procedures by which the applicant will record and report its financial information, including the start and end dates of the applied accounting year.
2. In accordance with Article 72 of Regulation (EU) 2023/1114 to identify, prevent, manage and disclose conflicts of interest, applicants shall provide to the competent authority all the following information on the management of conflicts of interests:
- (a) a copy of the applicant's conflicts of interest policy, together with a description of how that policy:
 - (i) ensures that the applicant identifies, prevents and manages conflicts of interests in accordance with Article 72(1) of Regulation (EU) 2023/1114 and discloses conflicts of interest in accordance with Article 72(2) of that Regulation;

- (ii) is commensurate to the scale, nature and range of crypto-asset services that the applicant intends to provide and of the other activities of the group to which the applicant belongs;
 - (iii) ensures that the remuneration policies, procedures and arrangements do not create conflicts of interest;
- (b) how the applicant's conflicts of interest policy ensures compliance with Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114, including information on the systems and arrangements put in place by the applicant to:
 - (i) monitor, assess, review the effectiveness of its conflicts of interests policy and remedy any deficiencies;
 - (ii) record cases of conflicts of interests, including the identification, assessment, remedy and the fact whether the case was disclosed to the client.

Article 5

Business continuity plan

1. For the purposes of Article 62(2), point (i), of Regulation (EU) 2023/1114 applicants shall submit to the competent authority a detailed description of the business continuity plan, including the steps to be taken to ensure continuity and regularity in the provision of the applicant's crypto-asset services.
2. The description referred to in paragraph 1 shall include the following:
 - (a) details proving that the business continuity plan is appropriate and that arrangements are set up to maintain and periodically test that plan;
 - (b) with regard to critical or important functions supported by third-party service providers, information on how business continuity is ensured where the quality of the provision of such functions deteriorates to an unacceptable level or fails;
 - (c) information on how business continuity is ensured in the event of the death of a key person and, where relevant, political risks in the service provider's jurisdiction.

Article 6

Detection and prevention of money laundering and terrorist financing

For the purposes of Article 62(2), point (i), of Regulation (EU) 2023/1114, applicants shall provide the competent authority with information on their internal control mechanisms, policies and procedures to comply with the provisions of national law transposing Directive (EU) 2015/849 and the risk assessment framework to manage risks relating to money laundering and terrorist financing, including all of the following:

- (a) the applicant's assessment of the inherent and residual risks of money laundering and terrorist financing associated with its business, including the risks relating to:
 - (i) the applicant's customer base;
 - (ii) services provided;

- (iii) distribution channels used;
- (iv) geographical areas of operation;
- (b) the measures that the applicant has or will put in place to prevent the identified risks and comply with applicable anti-money laundering and counter-terrorist financing requirements, including the applicant's risk assessment process, the policies and procedures to comply with customer due diligence requirements, and the policies and procedures to detect and report suspicious transactions or activities;
- (c) detailed information on how those internal control mechanisms, policies and procedures are adequate and proportionate to the scale, nature, inherent risk of money laundering and terrorist financing, range of crypto-asset services provided, complexity of the business model and how those mechanisms, policies and procedures ensure compliance with Directive (EU) 2015/849 and Regulation (EU) 2023/1113;
- (d) the identity of the person in charge of ensuring compliance with anti-money laundering and counter-terrorist financing requirements, and evidence of that person's knowledge, skills and experience;
- (e) arrangements, human and financial resources ensuring that the staff of the applicant is appropriately trained in anti-money laundering and counter-terrorist financing matters (annual indications) and on specific crypto-asset related risks;
- (f) a copy of the applicant's anti-money laundering and counter-terrorism policies, procedures and systems;
- (g) the frequency of the assessment of the adequacy and effectiveness of those internal control mechanisms, policies and procedures, and the person or function responsible for such assessment.

Article 7

Identity and proof of good reputation, knowledge, skills and experience, and of sufficient time commitment of the members of the management body

1. For the purposes of Article 62(2), point (g), of Regulation (EU) 2023/1114, applicants shall provide the competent authority with all the following information for each member of the management body:
 - (a) the full name and, where different, name at birth;
 - (b) the place and date of birth, address and contact details of the current place of residence and of any other place of residence in the past 10 years, nationality or nationalities, national identification number and copy of an official identity document or equivalent;
 - (c) details of the position held or to be held by the member of the management body, including whether the position is executive or non-executive, the start date or planned start date and, where applicable, the duration of mandate, and a description of the member's key duties and responsibilities;
 - (d) a curriculum vitae stating relevant education, professional training and professional experience with the name and nature of all organisations for which the member has worked and the nature and duration of the functions performed for positions held in the previous 10 years, in particular highlighting any activities within the scope of the position sought, including professional experience relevant to financial services, crypto-assets, or other digital assets, DLT, information technology, cybersecurity, or digital innovation;
 - (e) documentation relating to the member's reputation and experience, in particular a list of reference persons including contact information and letters of recommendation;

- (f) member's history, namely all the following:
 - (i) absence of a criminal record;
 - (ii) information on pending criminal proceedings or investigations or penalties (relating to commercial law, financial services law, money laundering, and terrorist financing, fraud or professional liability), information on enforcement proceedings or sanctions, information on relevant civil and administrative cases and disciplinary actions, including disqualification as a company director, bankruptcy, insolvency and similar procedures;
 - (iii) information on any refusal, withdrawal, revocation or termination of registration, authorisation, membership or licence to carry out a trade, business or profession, or any expulsion by a regulatory or government body, professional body or association;
 - (iv) information on dismissal from a position of trust, fiduciary relationship, or similar situation of trust or relationship;
 - (v) information on whether any authority has assessed the reputation of the individual, including the identity of that authority, the date of the assessment and information about the outcome of that assessment;
- (g) a description of any financial and non-financial interests or relationships of the member and close relatives of that member to other members of the management body and key function holders in the same institution, the parent institution, subsidiaries and shareholders; that could create potential conflicts of interest.
- (h) where a material conflict of interest is identified, a statement of how that conflict will be mitigated or remedied, including a reference to the outline of the conflicts of interest policy;
- (i) information on the time that will be devoted to the performance of the member's functions within the applicant, including all of the following:
 - (i) the estimated minimum time, per year and per month, that the member will devote to the performance of his or her functions within the applicant;
 - (ii) a list of the other executive and non-executive directorships that the member holds, referring to commercial and non-commercial activities or set up for the sole purposes of managing the economic interests of the member concerned;
 - (iii) information on the size and complexity of the companies or organisations where the directorships referred to in point (ii) are held, including total assets, based on the last available annual accounts whether or not the company is listed and the number of employees of those companies or organisations;
 - (iv) a list of any additional responsibilities associated with the directorships referred to in point (ii), including chairing a committee;
 - (v) the estimated time in days per year dedicated to each of the other directorships referred to in point (ii) and the number of meetings per year dedicated to each mandate.

For the purposes of point (d), applicant shall include details on all delegated powers and internal decision-making powers held and the areas of operations under control.

For the purposes of points (f)(i) and (ii), applicants shall provide the information through an official certificate, where available from the relevant Member State or third country, or through another equivalent document, where such certificate does not exist. Official records, certificates and documents shall have been issued within 3 months before the submission of application for authorisation. For ongoing investigations, the information may be provided through a declaration of honour.

For the purposes of point (f)(iv), the applicant shall not be required to submit the information about the previous assessment where the competent authority already has such information.

For the purposes of point (g), the description shall include any financial interests, including crypto assets, other digital assets, loans, shareholdings, guarantees or security interests, whether granted or received, commercial relationships, legal proceedings and whether the person was a politically exposed person as defined in Article 3, point (9), of Directive (EU) 2015/849 over the past 2 years.

2. An applicant seeking authorisation as a crypto-asset service provider in accordance with Article 62 of Regulation (EU) 2023/1114 shall provide to the competent authority the results of any suitability assessment of each member of the management body performed by the applicant, and the results of the assessment of the collective suitability of the management body, including the suitability assessment report or documents on the outcome of the suitability assessment.

Article 8

Information relating to shareholders or members with qualifying holdings

For the purposes of Article 62(2), point (h), of Regulation (EU) 2023/1114, applicants shall provide to the competent authority all the following information:

- (a) a detailed organigram of the holding structure of the applicant, including the breakdown of its capital and voting rights and the names of the shareholders or members with qualifying holdings;
- (b) for each shareholder or member having a direct or indirect qualifying holding in the applicant, the information and documents set out in Articles 1 to 4 of Commission Delegated Regulation (EU) 2025/414¹⁴⁰ as applicable;
- (c) the identity of each member of the management body that will direct the business of the applicant and will be appointed by, or following a nomination from, such shareholder or member with qualifying holdings;
- (d) for each shareholder or member having a direct or indirect qualifying holding in the applicant, information on the number and type of shares or other holdings subscribed, their nominal value, any premium paid or to be paid, any security interests or encumbrances, including the identity of the secured parties;
- (e) information referred to in Article 6, points (b), (d) and (e), and Article 8 of Commission Delegated Regulation (EU) 2025/414.

Article 9

ICT systems and related security arrangements

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For the purposes of Article 62(2), point (j), of Regulation (EU) 2023/1114, applicants shall provide to the competent authority the following information:

- (a) technical documentation of the ICT systems, DLT infrastructure relied upon, where relevant, and the security arrangements, including a description of the arrangements and deployed ICT and human resources established to comply with Regulation (EU) 2022/2554 of the European Parliament and of the Council¹⁴¹ as follows:
 - (i) a description of how the applicant ensures a sound, comprehensive and well-documented ICT risk management framework as part of its overall risk management system, including a detailed description of ICT systems, protocols and tools and of how the applicant's procedures, policies and systems to safeguard the security, integrity, availability, authenticity and confidentiality of data comply with Regulations (EU) 2022/2554 and (EU) 2016/679;
 - (ii) an identification of ICT services supporting critical or important functions, developed or maintained by the applicant, and ICT services supporting critical or important functions provided by third-party service providers, a description of such contractual arrangements (identity and geographical location of the providers, description of the outsourced activities or ICT services with their main characteristics, copy of contractual agreements) and how those arrangements comply with Article 73 of Regulation (EU) 2023/1114 and Chapter V of Regulation (EU) 2022/2554;
 - (iii) a description of the applicant's procedures, policies, arrangements and systems for security and incident management;
- (b) if available, a description of a cybersecurity audit conducted by a third-party cybersecurity auditor having sufficient experience in accordance with Commission Delegated Regulation establishing technical standards adopted pursuant to Article 26(11) fourth subparagraph of Regulation (EU) 2022/2554 covering ideally the following audits or tests:
 - (i) organisational cybersecurity, physical security and secure software development lifecycle arrangements;
 - (ii) vulnerability assessments and scans and, network security assessments;
 - (iii) configuration reviews of ICT assets supporting critical and important functions as defined in Article 3, point (22) of Regulation (EU) 2022/2554;
 - (iv) penetration tests on the ICT assets supporting critical and important functions as defined in Article 3, point (17) of Regulation (EU) 2022/2554, in accordance with all the following audit test approaches:
 - (1) black box: the auditor has no information other than the IP addresses and URLs associated with the audited target. This phase is generally preceded by the discovery of information and the identification of the target by querying domain name system (DNS) services, scanning open ports, discovering the presence of filtering equipment, etc.;

¹⁴¹ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2554/oj>).

- (2) grey box phase: auditors have the knowledge of a standard user of the information system (legitimate authentication, 'standard' workstation, etc.). The identifiers can belong to different user profiles in order to test different privilege levels;
- (3) white box phase: auditors have as much technical information as possible (architecture, source code, telephone contacts, identifiers, etc.) before starting the analysis and also access to technical contacts related to the target;
- (v) where the applicant uses and/or develops smart-contracts, a cybersecurity source code review of them;
- (c) a description of conducted audits of the ICT systems, if any, including used DLT infrastructure and security arrangements;
- (d) a description of the relevant information referred to in points (a) and (b) in non-technical language.

Article 10

Segregation and safekeeping of clients' crypto-assets and funds

1. For the purposes of Article 62(2), point (k), of Regulation (EU) 2023/1114, applicants that intend to hold crypto-assets belonging to clients or the means of access to such crypto-assets, or clients' funds, other than e-money tokens, shall provide to the competent authority a detailed description of their procedures for the segregation of clients' crypto assets and funds, including all of the following:
 - (a) how the applicant ensures that:
 - (i) clients' funds are not used for its own account;
 - (ii) crypto-assets belonging to the clients are not used for its own account;
 - (iii) the wallets holding clients' crypto-assets are different from the applicant's own wallets;
 - (b) a detailed description of the approval system for cryptographic keys and safeguarding of cryptographic keys, including multi-signature wallets;
 - (c) how the applicant segregates clients' crypto-assets, including from other clients' crypto-assets where wallets contain crypto-assets of more than one client (omnibus accounts);
 - (d) a description of the procedure ensuring that clients' funds, other than e-money tokens, are deposited with a central bank or a credit institution by the end of the business day following the day on which those funds were received and held in an account separately identifiable from any accounts used to hold funds belonging to the applicant;
 - (e) where the applicant does not intend to deposit funds with the relevant central bank, which factors the applicant takes into account to select the credit institutions with which to deposit clients' funds, including the applicant's diversification policy, where available, and the frequency of review of the selection of credit institutions with which to deposit clients' funds;
 - (f) how the applicant ensures that clients are informed in clear, concise and non-technical language about the key aspects of the applicant's systems, policies and procedures to comply with Article 70(1), (2) and (3) of Regulation (EU) 2023/1114.

2. In accordance with Article 70(5) of Regulation (EU) 2023/1114, crypto-asset service providers that are electronic money institutions or payment institutions shall only provide the information referred to in paragraph 1 of this Article in relation to the segregation of clients' crypto-assets.

Article 11

Complaints-handling procedures

For the purposes of Article 62(2), point (l), of Regulation (EU) 2023/1114, applicants shall provide to the competent authority a detailed description of their complaints-handling procedures, including all the following:

- (a) information on the human and technical resources allocated to complaints handling;
- (b) information on the person in charge of the resources dedicated to the management of complaints, together with a curriculum vitae stating relevant education, professional training and professional experience justifying the knowledge, skills, and experience for the discharge of the responsibilities allocated to that person;
- (c) how the applicant ensures compliance with Commission Delegated Regulation establishing technical standards adopted pursuant to Article 71(5) of Regulation (EU) 2023/1114;
- (d) how the applicant will inform clients or potential clients of the possibility to file a complaint free of charge, where that information is available on the applicant's website, or on any other relevant digital device that may be used by clients to access the crypto-asset services and the content of the information provided;
- (e) the applicant's record-keeping arrangements in relation to complaints;
- (f) the timeline provided in the complaints-handling procedures of the applicant to investigate, respond and, where appropriate, take measures in response to complaints received;
- (g) how the applicant will inform clients or potential clients of the available remedies;
- (h) the procedural key steps of the applicant in deciding on a complaint and how the applicant will communicate that decision to the client or potential client that filed the complaint.

Article 12

Custody and administration policy

For the purposes of Article 62(2), point (m), of Regulation (EU) 2023/1114, applicants that intend to provide custody and administration of crypto-assets on behalf of clients shall provide to the competent authority all of the following information:

- (a) a description of the arrangements linked to the type of custody offered to clients, a copy of the applicant's standard agreement for the custody and administration of crypto-assets on behalf of clients pursuant to Article 75(1) of Regulation (EU) 2023/1114 and a copy of the summary of the custody policy made available to clients in accordance with Article 75(3) of Regulation (EU) 2023/1114;
- (b) the applicant's custody and administration policy, including a description of identified sources of operational and ICT risks for the safekeeping and control of the crypto-assets or the means of access to the crypto-assets of clients, together with a description of:

- (i) the policies and procedures and a description of the arrangements to comply with Article 75(8) of Regulation (EU) 2023/1114;
 - (ii) the policies and procedures, and a description of the systems and controls to manage operational and ICT risks, including where the custody and administration of crypto-assets on behalf of clients is outsourced to a third party;
 - (iii) the policies and procedures relating to, and a description of, the systems ensuring the exercise of the rights attached to the crypto-assets by the clients;
 - (iv) the procedures and a description of the systems ensuring the return of crypto-assets or the means of access to the clients;
- (c) information on how the crypto-assets and the means of access to the crypto-assets of the clients are identified;
- (d) information on arrangements to minimise the risk of loss of crypto-assets or of means of access to crypto-assets;
- (e) where the crypto-asset service provider has delegated the provision of custody and administration of crypto-assets on behalf of clients to a third-party:
- (i) information on the identity of any third-party providing the custody and administration of crypto-assets and its status in accordance with Article 59 or Article 60 of Regulation (EU) 2023/1114;
 - (ii) a description of any functions relating to the custody and administration of crypto-assets delegated by the crypto-asset service provider, the list of any delegates and sub-delegates, as applicable, and any conflicts of interest that could arise from such a delegation;
 - (iii) a description of how the applicant intends to supervise the delegations or sub-delegations.

Article 13

Operating rules of the trading platform and market abuse detection

1. For the purposes of Article 62(2), point (n), of Regulation (EU) 2023/1114, applicants that intend to operate a trading platform for crypto-assets shall provide to the competent authority all of the following information:
- (a) the rules on the admission of crypto-assets to trading;
 - (b) the approval process for admitting crypto-assets to trading, including the customer due diligence carried out in accordance with Directive (EU) 2015/849;
 - (c) the list of any categories of crypto-assets that will not be admitted to trading and the reasons for such exclusion;
 - (d) the policies, procedures and fees for the admission to trading, together with a description, where relevant, of membership, rebates and the related conditions;
 - (e) the rules governing order execution, including any cancellation procedures for executed orders and for disclosing such information to market participants;

- (f) the policies, procedures and methods put in place to assess the suitability of crypto-assets in accordance with Article 76(2) of Regulation (EU) 2023/1114;
- (g) the systems, procedures and arrangement put in place to comply with Article 76(7), of Regulation (EU) 2023/1114;
- (h) the manner of making public any bid and ask prices, the depth of trading interests at those prices that are advertised for crypto-assets through their trading platforms and price, volume and time of transactions executed in respect of crypto-assets traded on their trading platform, in accordance with Article 76(9) and (10) of Regulation (EU) 2023/1114;
- (i) the fee structures and a justification of how those fee structures comply with Article 76(13) of Regulation (EU) 2023/1114;
- (j) the systems, procedures and arrangements put in place to keep data relating to all orders at the disposal of the competent authority or the mechanism to ensure that the competent authority has access to the order book and any other trading system;
- (k) with regards to the settlement of transactions:
 - (i) whether the final settlement of transactions is initiated on the distributed ledger or outside the distributed ledger;
 - (ii) the timeframe within which the final settlement of crypto-asset transactions is initiated;
 - (iii) the way to verify the availability of funds and crypto-assets;
 - (iv) the way to confirm the relevant details of transactions;
 - (v) the measures foreseen to limit settlement fails;
 - (vi) the moment at which settlement is final and the moment at which final settlement is initiated following the execution of the transaction;
- (l) the policies, procedures and systems put in place to detect and prevent market abuse, including information on the communications to the competent authority of possible market abuse cases.

2. Applicants that intend to operate a trading platform for crypto-assets shall provide to the competent authority a copy of the operating rules of the trading platform and of any procedures and systems to detect and prevent market abuse.

Article 14

Exchange of crypto-assets for funds or other crypto-assets

For the purposes of Article 62(2), point (o), of Regulation (EU) 2023/1114, applicants that intend to exchange crypto-assets for funds or other crypto-assets shall provide to the competent authority all of the following information:

- (a) a description of the commercial policy established in accordance with Article 77(1) of Regulation (EU) 2023/1114;

- (b) a description of the method for determining the price of the crypto-assets that the applicant proposes to exchange for funds or other crypto-assets in accordance with Article 77(2) of Regulation (EU) 2023/1114, including how the volume and market volatility of crypto-assets impact the pricing mechanism.

Article 15

Execution policy

For the purposes of Article 62(2), point (p), of Regulation (EU) 2023/1114, applicants that intend to execute orders for crypto-assets on behalf of clients shall provide to the competent authority their execution policy, including all of the following:

- (a) the arrangements ensuring that the client has provided consent on the execution policy prior to the execution of the order;
- (b) a list of the trading platforms for crypto-assets on which the applicant will rely for the execution of orders and the criteria for the assessment of execution venues included in the execution policy in accordance with Article 78(6) of Regulation (EU) 2023/1114;
- (c) which trading platforms the applicant intends to use for each type of crypto-assets and confirmation that the applicant will not receive any form of remuneration, discount or non-monetary benefit in return for routing orders received to a particular trading platform for crypto-assets;
- (d) how the execution takes into account price, costs, speed, likelihood of execution and settlement, size, nature, conditions of custody of the crypto-assets or any other relevant factors that are considered as part of all necessary steps to obtain the best possible result for the client;
- (e) where applicable, the arrangements for informing clients that the applicant will execute orders outside a trading platform and how the applicant will obtain the prior express consent of its clients before executing such orders;
- (f) how the client is warned that any specific instructions from a client may prevent the applicant from taking the necessary steps, in line with the arrangements that the applicant has established and implemented in its execution policy, to obtain the best possible result for the execution of those orders in respect of the elements covered by those instructions;
- (g) the selection process for trading venues, execution strategies employed, the arrangements used to analyse the quality of execution obtained and how the applicant monitors and verifies that the best possible results were obtained for clients;
- (h) the arrangements to prevent the misuse of any information relating to clients' orders by the employees of the applicant;
- (i) the arrangements and procedures for how the applicant will disclose to clients information on its order execution policy and notify them of any material changes to their order execution policy;
- (j) the arrangements to demonstrate compliance with Article 78 of Regulation (EU) 2023/1114 to the competent authority, upon the request of that competent authority.

Article 16

Provision of advice on crypto-assets or portfolio management of crypto-assets

For the purposes of Article 62(2), point (q), of Regulation (EU) 2023/1114, applicants that intend to provide advice on crypto-assets or portfolio management of crypto-assets shall provide to the competent authority all of the following information:

- (a) a detailed description of the arrangements put in place by the applicant to comply with Article 81(7) of Regulation (EU) 2023/1114, including the following:
 - (i) the mechanisms to control, assess and maintain effectively the knowledge and expertise of the natural persons giving advice on crypto-assets or managing portfolios of crypto-assets;
 - (ii) the arrangements ensuring that natural persons involved in the provision of advice or portfolio management are aware of, understand and apply the applicant's internal policies and procedures established to comply with Regulation (EU) 2023/1114, in particular with Article 81(1) of that Regulation and with Directive (EU) 2015/849;
 - (iii) the amount of human and financial resources planned to be devoted on a yearly basis by the applicant to the professional development and training of the staff giving advice on crypto-assets or managing portfolio of crypto-assets;
- (b) the mechanisms to control, assess and maintain effectively the knowledge and competence of the natural persons giving advice on behalf of the applicant have the necessary knowledge and competence, according to the criteria for such assessment used in national legislation, so as to conduct the suitability assessment referred to in Article 81(1) of Regulation (EU) 2023/1114.

Article 17

Transfer services

For the purposes of Article 62(2), point (r), of Regulation (EU) 2023/1114, applicants that intend to provide transfer services for crypto-assets on behalf of clients shall provide to the competent authority all of the following information:

- (a) details on the types of crypto-assets for which the applicant intends to provide transfer services;
- (b) a detailed description of the arrangements put in place by the applicant to comply with Article 82 of Regulation (EU) 2023/1114, including detailed information on the applicant's arrangements and deployed ICT and human resources to address risks promptly, efficiently and thoroughly during the provision of transfer services for crypto-assets on behalf of clients, taking into account potential operational failures and cybersecurity risks;
- (c) where available, a description of the applicant's insurance policy, including on the insurance's coverage of detriment to client's crypto-assets that may result from cyber security risks;
- (d) arrangements to ensure that clients are adequately informed about the policies, procedures and arrangements referred to in point (b).

Article 18

Entry into force

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

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

Done at Brussels, 31 October 2024.

APPENDIX 15: COMMISSION DELEGATED REGULATION (EU) 2025/414

of 18 December 2024

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in a crypto-asset service provider

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁴², and in particular Article 84(4), third subparagraph, thereof,

Whereas:

- (1) In accordance with Article 83(1) of Regulation (EU) 2023/1114, a proposed acquirer of a qualifying holding in a crypto-asset service provider is to submit to the competent authority the detailed information that is necessary for the prudential assessment of the proposed acquisition, at the time of the notification of the proposed acquisition or increase of the qualifying holding.
- (2) The information contained in the notification submitted by the proposed acquirer should be true, accurate, complete and up-to-date from the moment of submission of the notification until the completion of the assessment by the competent authority. For that purpose, the proposed acquirer should inform the competent authority of any changes to the information provided in the notification.
- (3) The notification should contain data about the proposed acquirer, including the members of its management body, the indirect shareholders and the ultimate beneficial owner, and of the members of the management body of the target entity where the proposed acquirer intends to appoint any. That information would include personal data. In line with the principle of data minimisation enshrined in Article 5(1), point (c), of Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁴³, only personal data that is necessary and sufficient to enable the competent authority to thoroughly assess the criteria laid down in Article 84(1), points (a) to (e) of Regulation (EU) 2023/1114 should be provided to the competent authority. When assessing the notification of the proposed acquisition and processing the personal data included therein, competent authorities should comply with Regulation (EU) 2016/679. Furthermore, in line with the principles relating to processing of personal data laid down in Article 5 of Regulation (EU) 2016/679, competent authorities should keep such personal data for no longer than it is necessary to the performance of their supervisory tasks.

¹⁴² OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹⁴³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

- (4) Where the proposed acquirer is a legal person, information on the identity of the ultimate beneficial owners and on the reputation and experience, over the last 10 years, of the persons who effectively direct the business of the proposed acquirer is also necessary to perform the prudential assessment. Therefore, the proposed acquirer should submit that information to competent authorities.
- (5) Where the proposed acquirer is or is intended to be a trust structure, it is necessary for the competent authority of the target entity to obtain information on both the identity of the trustees who will manage the assets of the trust, and on the identity of the settlor and of the beneficial owners of those assets to be able to assess the reputation and experience of those persons.
- (6) Where the proposed acquirer is an alternative investment fund (AIF), as defined in Article 4(1), point (a), of Directive 2011/61/EU of the European Parliament and of the Council¹⁴⁴, or an undertaking for collective investment in transferable securities (UCITS), authorised in accordance with Article 5 of Directive 2009/65/EC of the European Parliament and of the Council¹⁴⁵, its alternative investment fund manager (AIFM) or the AIF in the case of an internally-managed AIF, or its UCITS management company or the UCITS investment company in the case of a self-managed UCITS, should provide the competent authority of the target entity with the identity of the individuals in charge of making the investment decisions for the fund and the information necessary for the assessment of their reputation.
- (7) Where the proposed acquirer is a sovereign wealth fund, that proposed acquirer should provide the competent authority with comprehensive information relevant to the assessment of reputation, including information on the identity and reputation of the persons holding high-level positions in the ministry, government department or other public body in charge of making the investment decisions for the fund.
- (8) Where the proposed acquirer is a natural person, it is necessary to obtain information both in relation to the proposed acquirer and in relation to any undertaking formally directed or controlled by the proposed acquirer over the last 10 years to provide the competent authority of the target entity with full information relevant to the assessment of reputation.
- (9) Where the proposed acquirer is a legal person, it is necessary to obtain information in relation to any undertaking under the proposed acquirer's control, and any shareholder with a qualifying holding in the proposed acquirer, to provide the competent authority of the target entity with full information relevant to the assessment of reputation.
- (10) The information relevant to the assessment of reputation should include the information on the absence of criminal convictions and criminal proceedings, historical or ongoing, as well as information on civil or administrative cases. Similarly, information should be provided in relation to all open investigations and proceedings, sanctions or other enforcement decisions against the proposed acquirer, and any other relevant information including refusal of registration or dismissal from employment or from a position of trust that is deemed relevant for the assessment of the reputation of the proposed acquirer.
- (11) To ensure that the outcome of investigations run by other authorities are duly considered by the competent authority of the target entity when conducting its own assessment of the proposed acquirer, the proposed acquirer should provide information on whether an assessment as acquirer, or as a person that directs the

¹⁴⁴ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/61/oj>).

¹⁴⁵ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32, ELI: <http://data.europa.eu/eli/dir/2009/65/oj>).

business of any relevant entity has already been conducted by another competent authority or other authority, and, if so, the outcome of such assessment should be provided by the proposed acquirer.

- (12) To facilitate the retrieval of previous assessments in supervisory databases and facilitate cooperation among competent authorities, the proposed acquirer should submit an entity identifier with the information included in the notification to the competent authority. The identifiers that may be used for this purpose should be those that may be used to identify legal entities in accordance with Article 14 of the Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b), of Regulation (EU) 2023/1114, as these identifiers have characteristics that make them appropriate for supervisory purposes.
- (13) With regard to the proposed acquisition of indirect qualifying holdings in the target entity, it is necessary to calibrate in a proportionate way the content of the information request. For that purpose, two cases should be differentiated. The first one is the case where the natural or legal person indirectly acquiring or increasing a qualifying holding in the target entity intends to acquire the control of an existing holder of qualifying holding in the target entity or holds control in the proposed direct acquirer of a qualifying holding in the target entity. The second one is the case where the existence of a qualifying holding is determined by multiplying the qualifying holding held in the target entity by the percentages of the qualifying holdings held indirectly along the holding chain. In the second case, having regard to the more limited influence that such an indirect shareholder or member with qualifying holdings may exercise on the target entity, the proposed acquirer should submit a reduced information.
- (14) Proposed acquirers might envisage the appointment of one or more members of the management body of the target entity. To enable the competent authority of the target entity to assess new members of the management body of that target entity, the proposed acquirer should provide the same information that is required from members of management bodies of crypto-asset service providers at the moment of authorisation.
- (15) To assess the financial soundness of that proposed acquirer, financial information concerning that proposed acquirer, including a description of the current business activities of the proposed acquirer, should be provided to the competent authority of the target entity.
- (16) It is important for the competent authority of the target entity to assess whether the existence of any potential conflict of interests could affect the financial soundness of the proposed acquirer and the sound and prudent management of the target entity. Therefore, proposed acquirers should provide information on the financial and non-financial interests or relationships of the proposed acquirer with any shareholders or directors or members of the management body of the target entity or person entitled to exercise voting rights in the target entity, or with the target entity itself or its group.
- (17) The submission of additional information is necessary where the proposed acquirer is a legal person. That additional information should allow the competent authority of the target entity to complete the assessment of the proposed acquisition, including in cases where the legal and group structures involved may be complex and may necessitate detailed review in relation to reputation, potential action in concert with other parties, and the ability of the competent authority of the target entity to continue effective supervision of the target entity.
- (18) Where the proposed acquirer is an entity established in a third country or is part of a group whose direct or ultimate parent undertaking is established outside the Union, additional information should be provided so that the competent authority of the target entity can assess that the legal regime of the third country does not provide obstacles to the ability of the target entity to comply with the prudential requirements, and is able to ascertain the proposed acquirer's reputation in that third country.

- (19) To enable an assessment as to whether the proposed acquisition will impact the ability of the competent authority of the target entity to carry out effective supervision of that target entity, the proposed acquirer should submit specific information. For legal persons, the competent authority of the target entity should assess the impact of the proposed acquisition on the consolidated supervision of the target entity and of the group that entity would belong to after the acquisition.
- (20) To enable the assessment of the proposed acquisition, the proposed acquirer should provide information identifying the target entity, details on the proposed acquirer's intention and strategic investment, and information on the shares owned or intended to be owned by the proposed acquirer. That information should include details of any action undertaken by the proposed acquirer in concert with other parties for the purposes of the proposed acquisition and the information about the price of the proposed acquisition.
- (21) Furthermore, the proposed acquirer should provide information on the financing of the proposed acquisition, including information concerning all means and sources of financing. The proposed acquirer should also be able to present evidence about the origin and legitimacy of the source of all such funds and assets, including any crypto-asset or other digital asset, in order for the competent authority of the target entity to assess their certainty, sufficiency and legitimate origin, including whether there is a risk of money laundering or terrorist financing.
- (22) To ensure a comprehensive assessment of the proposed acquisition, proposed acquirers intending to acquire a qualifying holding of more than 20 % and up to 50 % in the target entity should provide information on their strategy to the competent authority of the target entity. Similarly, proposed acquirers intending to acquire a qualifying holding of up to 20 % in the target entity but exercising an equivalent significant influence over that entity through other means, including the relationships between the proposed acquirer and the existing shareholders, the existence of shareholders' agreements, the distribution of shares, participating interests and voting rights across shareholders or the proposed acquirer's position within the group structure of the target entity, should also provide that information to ensure a high degree of homogeneity in assessing proposed acquisitions.
- (23) Where there is a proposed change in control of the target entity, the proposed acquirer should, as a general rule, submit a full business plan. However, where there is no proposed change in the control of the target entity, certain information on the entity's future strategy and the proposed acquirer's intentions for the target entity should be sufficient to assess whether the proposed acquisition will affect the financial soundness of the proposed acquirer.
- (24) Having regard to the principle of proportionality, in certain cases, the proposed acquirer should submit reduced information. In particular, where the proposed acquirer has been assessed for acquisition or increase in qualifying holdings by the same competent authority as that of the target entity within the previous 2 years, that proposed acquirer should be required to submit only the information that has changed since the previous assessment. Similarly, where the proposed acquirer is an authorised undertaking and subject to the prudential supervision of the same competent authority as that of the target entity, that proposed acquirer should be exempted from submitting certain information that is already in the possession of such competent authority. In both cases, the proposed acquirer should only submit information specific to the proposed acquisition together with a signed declaration certifying that the rest of the information that has not been submitted because already in possession of the competent authority is true, accurate and up-to-date.

- (25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁴⁶ and delivered an opinion on 21 June 2024.
- (26) This Regulation is based on the draft regulatory technical standards, developed in close cooperation with the European Banking Authority, submitted to the Commission by the European Securities and Markets Authority.
- (27) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁴⁷,

HAS ADOPTED THIS REGULATION:

Article 1

General information relating to the proposed acquirer

1. Where the proposed acquirer is a natural person, the proposed acquirer shall provide to the competent authority of the target entity the following identification information:
 - (a) all the following personal details:
 - (i) name and, if different, name at birth;
 - (ii) the date and place of birth;
 - (iii) nationality or nationalities;
 - (iv) personal national identification number, where available;
 - (v) current place of residence, address and contact details, and any other place of residence in the past 10 years;
 - (vi) a copy of an official identity document;
 - (vii) the name and contact details of the principal professional adviser, if any, used to prepare the notification;
 - (b) a detailed curriculum vitae, stating the relevant education and training, and any professional experience in managing holdings in companies, any management experience, any professional activities or other relevant functions currently performed, and any previous professional experience relevant to financial services,

¹⁴⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

¹⁴⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

crypto-assets or other digital assets, distributed ledger technology (DLT), information technology, cybersecurity, and digital innovation.

2. Where the proposed acquirer is a legal person, the proposed acquirer shall provide to the competent authority of the target entity the following information:

- (a) name of the legal person;
- (b) the name and contact details of the principal professional adviser, if any, used to prepare the notification;
- (c) where the legal person is registered in a national business register referred to in Article 16 of Directive (EU) 2017/1132 of the European Parliament and of the Council¹⁴⁸, the name of the register in which that legal person is registered, the registration number or an equivalent means of identification in that register and a copy of the registration certificate;
- (d) an identifier as referred to in Article 14 of the Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b), of Regulation (EU) 2023/1114;
- (e) the addresses of the registered office of the legal person and, where different, of its head office, and principal place of business;
- (f) contact details of the person within the proposed acquirer to contact regarding the notification;
- (g) corporate documents or agreements governing the legal person and a summary explanation of the main legal features of the legal form of the legal person and an up-to-date overview of its business activity;
- (h) whether the legal person has ever been or is regulated by a competent authority in the financial services sector or other government body and the name of such competent authority or other government body;
- (i) where the legal person is an obliged entity as referred to in Article 2 of Directive (EU) 2015/849 of the European Parliament and of the Council¹⁴⁹, the applicable anti-money laundering and counter terrorist-financing policies and procedures;
- (j) a complete list of the persons that effectively direct the business of the proposed acquirer and, in respect of each such person, the name, date and place of birth, address, contact details, a copy of the official identity document, the national identification number where available, the detailed curriculum vitae stating relevant education and training, the previous professional experience, and the professional activities or other relevant functions currently performed, including professional experience in managing holdings in companies, in financial services, crypto-assets or other digital assets, DLT, information technology, cybersecurity or digital innovation, together with the information referred to in Article 2(1), points (a) to (c);
- (k) the identity of all persons that are ultimate beneficial owners of the legal persons within the meaning of Article 3(6), points (a)(i) or Article 3(6), point (c), of Directive (EU) 2015/849, and in respect of each such person, the name, date and place of birth, address, contact details, and, where available, the national

¹⁴⁸ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46, ELI: <http://data.europa.eu/eli/dir/2017/1132/oj>).

¹⁴⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73, ELI: <http://data.europa.eu/eli/dir/2015/849/oj>).

identification number, together with the information referred to in Article 2(1), points (a) to (c) of this Regulation.

For legal persons under the scope of Directive (EU) 2017/1132, the information under points (a) and (e) shall match the one filed in the national business register referred to in Article 16 of Directive (EU) 2017/1132.

3. Where the proposed acquirer is a trust, the proposed acquirer shall provide to the competent authority of the target entity the following information:

- (a) the identity of all trustees who manage assets under the terms of the trust document, including in respect of each such person, the date and place of birth, address, contact details, a copy of the official identity document, the national identification number, where available, the detailed curriculum vitae stating relevant education and training, the previous professional experience, and the professional activities or other relevant functions currently performed, including professional experience in managing holdings in companies, in financial services, crypto-assets or other digital assets, DLT, information technology, cybersecurity or digital innovation, together with the information referred to in Article 2(1), points (a) to (c);
- (b) the identity of each person who is a settlor, a beneficiary or a protector (where applicable) of the trust property, including the date and place of birth, address, contact details, copy of the official identity document, and, where applicable, their respective shares in the distribution of income generated by the trust property;
- (c) a copy of any document establishing and governing the trust;
- (d) a description of the main legal features of the trust and its functioning, and an up-to-date overview of its business activity, and type and value of the trust property;
- (e) a description of the investment policy of the trust and possible restrictions on investments, including information on the factors influencing investment decisions and the exit strategy in relation to the crypto-asset service provider;
- (f) the information referred to in paragraph 2, point (i).

4. Where the proposed acquirer is an alternative investment fund (AIF) within the meaning of Article 4(1), point (a), of Directive 2011/61/EU, or an undertaking for collective investment in transferable securities (UCITS) authorised in accordance with Article 5 of Directive 2009/65/EC, its alternative investment fund manager (AIFM) or the AIF in the case of an internally-managed AIF, or its UCITS management company or the UCITS investment company in the case of a self-managed UCITS, shall provide to the competent authority of the target entity the following information:

- (a) details of the investment policy and any restrictions on investments, including information on the factors influencing investment decisions, and of exit strategies;
- (b) the identity and position of the persons responsible, whether individually or as a committee, for determining and making the investment decisions for the AIF or UCITS, and a copy of any contract in case of delegation of portfolio management to a third party or, where applicable, terms of reference of the committee, and for each such person, the date and place of birth, address, contact details, a copy of their official identity document, the national identification number, where available, the detailed curriculum vitae stating relevant education and training, the previous professional experience, and the professional activities or other relevant functions currently performed, together with the information referred to in Article 2(1), points (a) to (c);

- (c) the information referred to in paragraph 2, point (i);
 - (d) a description of the performance of qualifying holdings previously acquired by the AIFM or UCITS management company on behalf of the AIFs or UCITS they manage or by the AIF or self-managed UCITS investment company in the last 3 years in other similar firms or in firms providing services in relation to crypto-assets or issuing crypto-assets, indicating whether the acquisition of such qualifying holdings was approved by a competent authority and, if so, the identity of that competent authority.
5. Where the proposed acquirer is a sovereign wealth fund, the proposed acquirer shall provide the competent authority of the target entity with the following information:
- (a) the name of the ministry, government department or other public body in charge of determining the investment policy of the sovereign wealth fund;
 - (b) details of the investment policy of the sovereign wealth fund and any restrictions on investment;
 - (c) the names and positions of the persons in high-level administrative position in the ministry, government department or other public body that are in charge of determining the investment policy and that are responsible for making the investment decisions for the sovereign wealth fund, and for each such person the date and place of birth, address, contact details, a copy of the official identity document, the national identification number where available, the detailed curriculum vitae stating relevant education and training, the previous professional experience, and the professional activities or other relevant functions currently performed, including professional experience in managing holdings in companies, in financial services, crypto-assets or other digital assets, DLT, information technology, cybersecurity or digital innovation, together with the information referred to in Article 2(1), points (a) to (c);
 - (d) details of any influence exerted by the ministry, government department or other public body referred to in point (a) on the day-to-day operations of the sovereign wealth fund;
 - (e) the information referred to in paragraph 2, point (i), where applicable.

Article 2

Additional information relating to the proposed acquirer that is a natural person

1. In addition to the information referred to in Article 1(1), the proposed acquirer that is a natural person shall provide to the competent authority of the target entity all of the following:
- (a) in respect of the proposed acquirer and of any undertaking directed or controlled by the proposed acquirer over the last 10 years, a statement containing the following information:
 - (i) subject to national legislative requirements concerning the disclosure of spent convictions, information on the absence of any criminal convictions or criminal proceedings where that person has been found against and which were not set aside;
 - (ii) information about any civil or administrative decisions concerning that person that are relevant for the assessment of the acquisition of the qualifying holding in the crypto-asset service provider and any administrative sanctions or measures that were imposed as a consequence of a breach of laws or regulations, including disqualification as a company director, in each case which was not set aside and against which no appeal is pending or may be filed, and of criminal convictions in respect of which information shall also be provided for rulings still subject to appeal;

- (iii) any bankruptcy, insolvency or similar procedures;
 - (iv) any pending criminal investigations or procedures including relating to precautionary measures;
 - (v) any civil, administrative investigations, enforcement proceedings, sanctions or other enforcement decisions against the person concerning matters which may reasonably be considered to be relevant to the assessment of the acquisition of the qualifying holding in the crypto-asset service provider;
 - (vi) any refusal of registration, authorisation, membership or licence to carry out trade, business or a profession;
 - (vii) any withdrawal, revocation or termination of a registration, authorisation, membership or license to carry out a trade, business or a profession;
 - (viii) any expulsion by a regulatory or government body or by a professional body or association;
 - (ix) any position of responsibility within an entity subject to any criminal conviction or civil or administrative penalty or other civil or administrative measure that is relevant for the assessment of the acquisition of the qualifying holding in the crypto-asset service provider taken by any authority or any ongoing investigation, in each case for conduct failings, including in respect of fraud, dishonesty, corruption, money laundering, terrorist financing or other financial crime or of failure to put in place adequate policies and procedures to prevent such events, held at the time when the alleged conduct occurred, together with details of such occurrences and of the involvement, if any, in them;
 - (x) any dismissal from employment or a position of trust, any removal from a fiduciary relationship, save as a result of the relationship concerned coming to an end by passage of time, and any similar situation;
- (b) where such documents exist, an official certificate or any other equivalent document, or where such documents do not exist, any reliable source of information, concerning the absence of any of the events referred to in point (a), points (i) to (v) in respect of that person;
 - (c) where another supervisory authority has already assessed the person concerned, the identity of that authority, the date of that assessment and evidence of the outcome of that assessment;
 - (d) information on the current financial position of the person, including details concerning sources of revenues, assets and liabilities, security interests and guarantees, whether granted or received;
 - (e) a description of the current business activities of the person and of any undertaking which the person directs or controls;
 - (f) financial information, including credit ratings and publicly available reports on any undertakings directed or controlled by the person.

For the purposes of point (b), official records, certificates and documents shall have been issued within 3 months before the submission of the notification.

2. In addition to the information referred to in Article 1(1), the proposed acquirer that is a natural person shall also provide to the competent authority of the target entity all of the following:

- (a) a description of the financial interests of the person, and of any non-financial interests of the person with any of the following natural or legal persons:

- (i) any other current shareholder or member of the target entity;
- (ii) any person entitled to exercise voting rights of the target entity in any of the following cases or combination thereof:
 - (1) voting rights held by a third party with whom that person has concluded an agreement that obliges them to adopt, by concerted exercise of the voting rights held by them, a lasting common policy towards the management body of the target entity concerned;
 - (2) voting rights held by a third party under an agreement concluded with that person providing for the temporary transfer for consideration of the voting rights concerned;
 - (3) voting rights attached to shares that are lodged as collateral with that person, provided the person controls the voting rights and declares his or her intention of exercising those voting rights;
 - (4) voting rights attached to shares in which that person has the life interest;
 - (5) voting rights that are held, or may be exercised as referred to in points (1) to (4) by an undertaking controlled by that person;
 - (6) voting rights attached to shares deposited with that person which the person can exercise at its discretion in the absence of specific instructions from the shareholders;
 - (7) voting rights held by a third party in its own name on behalf of that person;
 - (8) voting rights which that person may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders;
- (iii) any person that is a member of the management body of the target entity;
- (iv) the target entity itself or any other member of its group;
- (b) to the extent any conflict of interest arises from the relationships referred to in point (a), proposed methods for managing such conflict;
- (c) a description of any links to politically exposed persons within the meaning of Article 3(9) of Directive (EU) 2015/849;
- (d) any other interests or activities of the person that may be in conflict with those of the target entity and proposed methods for managing those conflicts of interest.

For the purposes of point (a), credit operations, guarantees and security interests, whether granted or received, including relating to crypto-assets or other digital assets, shall be deemed to be part of financial interests, whereas family or close relationships shall be deemed to be part of non-financial interests.

Article 3

Additional information relating to the proposed acquirer that is a legal person

1. In addition to the information referred to in Article 1(2), the proposed acquirer that is a legal person shall also provide to the competent authority of the target entity all of the following:

- (a) the information referred to in:
 - (i) Article 2(1), points (a)(i) to (a)(x) and point (b), in relation to the legal person and any undertaking under the legal person's control;
 - (ii) Article 2(1), point (c) in relation to the legal person itself;
 - (iii) Article 2(1), point (e) in relation to the legal person itself;
 - (iv) Article 2(1), point (f) in relation to the legal person itself, any member of the management body in their executive function of the legal person or any undertaking under the legal person's control;
- (b) a description of financial interests and non-financial interests or relationships of the proposed acquirer, or, where applicable, the group to which the proposed acquirer belongs, and the persons that effectively direct its business with:
 - (i) any other current shareholder or member of the target entity;
 - (ii) any person entitled to exercise voting rights of the target entity in any of the following cases or combination thereof:
 - (1) voting rights held by a third party with whom that person has concluded an agreement that obliges them to adopt, by concerted exercise of the voting rights held by them, a lasting common policy towards the management body of the target entity concerned;
 - (2) voting rights held by a third party under an agreement concluded with that person providing for the temporary transfer for consideration of the voting rights concerned;
 - (3) voting rights attached to shares that are lodged as collateral with that person, provided the person or entity controls the voting rights and declares its intention of exercising those voting rights;
 - (4) voting rights attached to shares in which that person has the life interest;
 - (5) voting rights that are held, or may be exercised as referred to in points (1) to (4) by an undertaking controlled by that person;
 - (6) voting rights attached to shares deposited with that person which the person can exercise at its discretion in the absence of specific instructions from the shareholders;
 - (7) voting rights held by a third party in its own name on behalf of that person;
 - (8) voting rights which that person may exercise as a proxy where the person can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders;
 - (iii) any politically exposed person within the meaning of Article 3, point (9), of Directive (EU) 2015/849;
 - (iv) any person that is, according to national legislation, a member of the administrative, management or supervisory body, or of the senior management of the target entity;
 - (v) the target entity itself or any other member of its group;

- (c) to the extent any conflict of interest arises from the relationships referred to in point (b), proposed methods for managing such conflicts;
- (d) information on any other interests or activities of the proposed acquirer that may be in conflict with interests or activities of the target entity and possible solutions for managing those conflicts of interest;
- (e) the shareholding structure of the proposed acquirer, with the identity of all shareholders exerting significant influence and their respective share of capital and voting rights including information on any shareholders agreements;
- (f) where the proposed acquirer is part of a group, as a subsidiary or as a parent company, a detailed organisational chart of the group structure and information on the share of capital and voting rights of shareholders with significant influence of the entities of the group and on the activities currently performed by the entities of the group;
- (g) where the proposed acquirer is part of a group as a subsidiary or as the parent company, information on the relationships between the financial and the non-financial entities of the group;
- (h) identification of any credit institution, payment institution or e-money institution, assurance, insurance or re-insurance undertaking, collective investment undertakings and their managers or investment firm within the group, and the names of the relevant supervisory authorities;
- (i) annual financial statements, at individual level and, where applicable, at consolidated and sub-consolidated levels, for the last 3 financial years, where the legal person has been in operation for that period, or such shorter period for which the legal person has been in operation and financial statements were prepared.

For the purposes of point (b), credit operations, guarantees and security interests, whether granted or received, including relating to crypto-assets or other digital assets, shall be deemed to be part of financial interests, whereas family or close relationships shall be deemed to be part of non-financial interests.

2. The proposed acquirer shall submit annual financial statements referred to in paragraph 1, point (i), including each of the following items, and where applicable approved by the statutory auditor or audit firm within the meaning of Article 2, points (2) and (3), respectively, of Directive 2006/43/EC of the European Parliament and of the Council¹⁵⁰:

- (a) the balance sheet;
- (b) the profit and loss accounts or income statements;
- (c) the annual reports and financial annexes and any other documents registered with the registry or competent authority of the legal person;
- (d) where the proposed acquirer is a newly set-up legal person or entity, in the absence of any financial statements, an updated summary as close as possible to the date of notification, of the financial situation of the proposed acquirer, as well as the financial forecasts for the next 3 years, and the planning assumptions used in base case and stress scenario.

¹⁵⁰ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87, ELI: <http://data.europa.eu/eli/dir/2006/43/oj>).

3. The proposed acquirer that is a legal person and has its head office in a third country shall, in addition to the information referred to in paragraph 1, provide to the competent authority of the target entity all of the following information:

- (a) where the legal person is supervised by an authority of a third country in the financial services sector:
 - (i) a certificate of good standing, or equivalent where not available, from such third country authority in relation to the legal person;
 - (ii) where that authority issues such declarations, the declaration that there are no obstacles or limitations to the provision of information necessary for the supervision of the target entity;
- (b) general information about the regulatory regime of that third country as applicable to the legal person, including information on the extent to which the third country's anti-money laundering and counter-terrorist financing regime is consistent with the recommendations of the Financial Action Task Force.

Article 4

Information to be submitted by persons acquiring an indirect qualifying holding in the target entity

1. Where a proposed acquirer intends to acquire, directly or indirectly, control over an existing holder of a qualifying holding in a target entity, irrespective of whether such existing holding is direct or indirect, or controls, directly or indirectly the proposed direct acquirer of a qualifying holding in a target entity, it shall submit the following:

- (a) where the proposed acquirer is a natural person, the information referred to in Article 1(1), in Articles 2, 6 and 8, and in Articles 9, 10 or 11, as applicable;
- (b) where the proposed acquirer is a legal person, the information referred to in Article 1(2) to (5), as applicable, in Articles 3, 6 and 8, and in Articles 9, 10 or 11, as applicable.

2. Where the proposed acquirer does not meet the conditions set out in paragraph 1, the proposed acquirer shall submit the information set out in paragraph 3, points (a) and (b), where the percentages of the holdings across the corporate chain, starting from the qualifying holding held directly in the target entity, multiplied per the holding in the level immediately above in the corporate chain results in a qualifying holding of 10 % or more. The multiplication shall be applied up the corporate chain for so long as the result of the multiplication is 10 % or more.

3. Where the proposed acquirer controls a natural or legal person holding a qualifying holding in accordance with paragraph 2, the proposed acquirer shall submit the following:

- (a) where the proposed acquirer is a natural person, the information referred to in Article 1(1), Article 2, points (a), (b) to (f) and (h), Article 6, points (a) to (f), and in Article 8;
- (b) where the proposed acquirer is a legal person, the information referred to in Article 1(2), (3), (4) or (5), Article 3(1), point (a), points (i) to (iv), Article 3(1), point (b), point (iii), Article 3(1), points (f) to (i), Article 3(2) and (3), Article 6, points (a) to (f), and in Article 8.

Article 5

Information on the persons that will direct the business of the target entity

Where the proposed acquirer intends to appoint one or more members of the management body of the target entity, the notification shall contain all the information referred to in Article 7 of Commission Delegated Regulation (EU) 2025/305¹⁵¹ for each such proposed member.

Article 6

Information relating to the proposed acquisition

In relation to the proposed acquisition, the proposed acquirer shall provide to the competent authority of the target entity the following information:

- (a) identification of the target entity;
- (b) details of the proposed acquirer's intentions with respect to the proposed acquisition, including strategic investment or portfolio investment;
- (c) information on the shares of the target entity owned, or intended to be owned, by the proposed acquirer before and after the proposed acquisition, including:
 - (i) the number and type of shares, and the nominal value of such shares;
 - (ii) the share of the overall capital of the target entity that the shares represent before and after the proposed acquisition;
 - (iii) the share of the overall voting rights of the target entity that the shares represent before and after the proposed acquisition, if different from the share of capital of the target entity;
 - (iv) the market value, in euro and in local currency, of the shares of the target entity before and after the proposed acquisition;
- (d) any action in concert with other parties, including the contribution of those other parties to the financing of the proposed acquisition, the means of participation in the financial arrangements in relation to the proposed acquisition and future organisational arrangements of the proposed acquisition;
- (e) the content of intended shareholder's agreements with other shareholders in relation to the target entity;
- (f) the proposed acquisition price and the criteria used when determining such price and, where different from the market value, an explanation of such difference;
- (g) where available, copy of the contract of acquisition.

Article 7

Information on the new proposed group structure and its impact on supervision

1. The proposed acquirer that is a legal person shall provide to the competent authority of the target entity an analysis of the scope of consolidated supervision of the group which the target entity would belong to after the proposed acquisition. That analysis shall include information about which group entities would be included

¹⁵¹ Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider (OJ L, 2025/305, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/305/oj).

in the scope of consolidated supervision requirements after the proposed acquisition and at which levels within the group those requirements would apply on a full or sub-consolidated basis.

2. The proposed acquirer shall also provide to the competent authority of the target entity an analysis of the impact of the proposed acquisition on the ability of the target entity to continue to provide timely and accurate information to its competent authority, including as a result of close links of the proposed acquirer with the target entity.

Article 8

Information relating to the financing of the proposed acquisition

1. The proposed acquirer shall provide to the competent authority of the target entity a detailed explanation of the specific sources of funding for the proposed acquisition, including:

- (a) detailed description of the activity that generated the funds and assets for the acquisition, supported by relevant documents, including financial statements, bank statements, tax statements and any other document or information providing evidence to the competent authority that no money laundering or terrorist financing is attempted through the proposed acquisition;
- (b) details on any assets, including any crypto-assets, that are to be sold to help finance the proposed acquisition, including conditions of sale, price, appraisal and details about the characteristics of those assets, including information on when, how and from whom those assets were acquired;
- (c) details on access to capital sources and financial markets including details of financial instruments to be issued;
- (d) where the funds used for the acquisition of the holding have been borrowed, information on the use of borrowed funds including the name of relevant lenders and details of the facilities granted, including maturities, terms, pledges and guarantees, and information on the source of revenue to be used to repay such loans;
- (e) details on the means of payment for the proposed acquisition and the network used to transfer funds other than e-money tokens;
- (f) details of any crypto-assets and related DLT used to acquire the holding, of any wallet, including the nature or type of wallet, whether it is custodial or non-custodial, where the crypto-assets used or exchanged into official currency to acquire the holding, or the means of access to such crypto-assets, were stored, of the crypto-asset service providers used, and of the distributed ledger addresses or accounts of the originator and of the beneficiary;
- (g) information on any financial arrangement with other persons that are or will be shareholders of the target entity.

For the purposes of point (d), where the lender is not a credit institution or a financial institution authorised to grant credit, the proposed acquirer shall provide comprehensive information and supporting evidence on the origin of the funds borrowed including, the lender's activity, legal form and place of residence, and any contractual clause empowering the lender to give instructions to the borrower about the qualifying holding.

2. The proposed acquirer that is a trust shall submit to the competent authority of the target entity information on the method of financing the trust and resources ensuring the financial soundness of the trust to support the crypto-asset service provider.

*Article 9***Additional information for qualifying holdings of up to 20 %**

Where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity of up to 20 %, the proposed acquirer shall submit to the competent authority of the target entity a document on the strategy containing, where relevant, the following information:

- (a) the strategy of the proposed acquirer regarding the proposed acquisition, including the period for which the proposed acquirer intends to hold its shareholding after the proposed acquisition and any intention of the proposed acquirer to increase, reduce or maintain the level of its shareholding in the foreseeable future;
- (b) an indication of the intentions of the proposed acquirer towards the target entity, and in particular whether or not the proposed acquirer intends to act as an active minority shareholder, and the rationale for that action;
- (c) information on the financial position of the proposed acquirer and its willingness to support the target entity with additional financing if needed for the development of its activities or in case of financial difficulties.

*Article 10***Additional information for qualifying holdings of more than 20 % and up to 50 %**

1. Where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity of more than 20 % and up to 50 %, the proposed acquirer shall submit to the competent authority of the target entity a document on the strategy containing, where relevant, the following information:

- (a) all the information requested pursuant to Article 9;
- (b) details on the influence that the proposed acquirer intends to exercise on the financial position, including dividend policy, the strategic development, and the allocation of resources of the target entity;
- (c) a description of the proposed acquirer's intentions and strategy towards the target entity, covering all the elements referred to in Article 11(2) with a level of detail proportionate to the influence in the target entity stemming from the acquisition.

2. The information referred to in paragraph 1 shall also be provided to the competent authority of the target entity by any proposed acquirer referred to in Article 9 where the influence exercised by the shareholding of the proposed acquirer, based on the assessment of the shareholding of the target entity, would be equivalent to the influence exercised by shareholdings of more than 20 % and up to 50 %.

*Article 11***Additional information for qualifying holdings of more than 50 %**

1. Where the proposed acquisition would result in the proposed acquirer holding a qualifying holding in the target entity of more than 50 %, or the target entity becoming its subsidiary, the proposed acquirer shall submit to the competent authority of the target entity a three year time horizon business plan. That plan shall comprise:

- (a) a strategic development plan;

- (b) estimated financial statements of the target entity;
 - (c) the impact of the acquisition on the corporate governance and general organisational structure of the target entity.
2. The strategic development plan referred to in paragraph 1, point (a), shall indicate, in general terms, the main goals of the proposed acquisition and the main ways for achieving those goals, including:
- (a) the overall aim of the proposed acquisition;
 - (b) financial goals which may be stated in terms of return on equity, cost-benefit ratio, earnings per share, or in other terms as appropriate;
 - (c) the possible redirection of activities, products, targeted customers and the possible reallocation of funds or resources expected to impact on the target entity;
 - (d) general processes for including and integrating the target entity in the group structure of the proposed acquirer, including a description of the main interactions to be pursued with other companies in the group, and a description of the policies governing intra-group relations.

For the purposes of point (d), for proposed acquirers authorised and supervised in the Union, information about the particular departments within the group structure which are affected by the transaction shall be sufficient.

3. The estimated financial statements of the target entity referred to in paragraph 1, point (b), shall, on both an individual and, where applicable, a consolidated basis, for a period of 3 years, include the following:
- (a) a forecast balance sheet and income statement;
 - (b) forecast prudential capital requirements and reserve of assets;
 - (c) information on forecasted level of risk exposures including market, operational, including cyber and fraud, credit and environmental risks, and other relevant risks;
 - (d) a forecast of intra-group transactions.
4. The impact of the acquisition on the corporate governance and general organisational structure of the target entity referred to in paragraph 1, point (c), shall include the impact on:
- (a) the composition and duties of the members of the management body, and where applicable, the main committees created by such decision-taking body including information concerning the persons that will be appointed as members of the management body;
 - (b) administrative and accounting procedures and internal controls, including changes in procedures and systems relating to accounting, internal audit, compliance with anti-money laundering and counter terrorism financing and with risk management, including the appointment of the key functions holders of internal audit, compliance officers and risk managers;
 - (c) the overall ICT architecture, including any changes concerning the policy relating to ICT third-party service providers of critical or important functions referred to in Article 28(2) of Regulation (EU) 2022/2554 of the

European Parliament and of the Council¹⁵², the data flowchart, the in-house and external software used and the essential data and systems security procedures and tools including back-up, business continuity plans and audit trails;

- (d) the policies governing third-party service providers of critical or important functions, including information on the areas concerned, on the selection of service providers, and on the respective rights and obligations of the principal parties as set out in contracts, including audit arrangements and arrangements for the custody and investment of the reserve of assets, and the quality of service expected from the provider;
- (e) any other relevant information relating to the impact of the acquisition on the corporate governance and general organisational structure of the target entity, including any modification regarding the voting rights of the shareholders.

Article 12

Reduced information requirements

1. Where the proposed acquirer has been assessed for the acquisition or increase in qualifying holdings by the same competent authority as that of the target entity in accordance with Articles 41(1) or Article 83(1) of Regulation (EU) 2023/1114, Article 13 of Directive 2014/65/EU of the European Parliament and of the Council¹⁵³, Article 23 of Directive 2013/36/EU of the European Parliament and of the Council¹⁵⁴, Article 59 of Directive 2009/138/EC of the European Parliament and of the Council¹⁵⁵ or Article 32 of Regulation (EU) No 648/2012 of the European Parliament and of the Council¹⁵⁶, within the previous 2 years before the submission of the notification, that proposed acquirer shall only submit to the competent authority of the target entity the information that is specific to the proposed acquisition or the information that has changed since the previous assessment.

The proposed acquirer shall submit a signed declaration indicating the exact information referred to in this Regulation that has not been submitted, certifying that such information has not changed since the previous assessment and that it is still true, accurate and up-to-date.

2. Without prejudice to paragraph 1, where the proposed acquirer is an undertaking authorised by the same competent authority as that of the target entity, and subject to the ongoing prudential supervision of that competent authority, that proposed acquirer shall only submit the information referred to in this Regulation

¹⁵² Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2554/oj>).

¹⁵³ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

¹⁵⁴ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>).

¹⁵⁵ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: <http://data.europa.eu/eli/dir/2009/138/oj>).

¹⁵⁶ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/648/oj>).

specific to the proposed acquisition and shall not be required to submit the information already in possession of that competent authority.

The proposed acquirer shall submit a signed declaration indicating the exact information referred to in this Regulation that has not been submitted because already in possession of that competent authority and certifying that such information is true, accurate and up-to-date.

3. For the purposes of this Article, information specific to the proposed acquisition referred to in this Regulation includes all of the following:

- (a) where the proposed acquirer is a natural person:
 - (i) information referred to in Article 1(1);
 - (ii) information referred to in Article 2(1), points (d) to (f) and Article 2(2), points (a) to (d) where the proposed acquisition is covered by paragraph 1, or information referred to in Article 2(2), points (a) to (d) where the proposed acquisition is covered by paragraph 2 of this Article;
 - (iii) information referred to in Article 5;
 - (iv) information referred to in Article 6;
 - (v) information referred to in Article 8;
 - (vi) information referred to in Article 9, 10 or 11, as applicable;
- (b) where the proposed acquirer is a legal person, a trust, an AIF within the meaning of Article 4(1), point (a), of Directive 2011/61/EU, or an UCITS within the meaning of Article 1(2) of Directive 2009/65/EC, or a sovereign wealth fund:
 - (i) information referred to in Article 1(2), points (a) to (f);
 - (ii) information referred to in Article 3(1), points (a)(ii) to (a)(iv), and points (b), (c) and (d), and in Article 5 as applicable, and, where the proposed acquisition is covered by paragraph 1 of this Article, also information referred to in Article 3(2), points (a) to (d);
 - (iii) information referred to in Articles 6 and 7;
 - (iv) information referred to in Article 8;
 - (v) information referred to in Articles 9, 10 or 11, as applicable.

Article 13

Entry into force

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

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

Done at Brussels, 18 December 2024.

APPENDIX 16: COMMISSION DELEGATED REGULATION (EU) 2025/415
of 13 December 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying
adjustment of own funds requirement and minimum features of stress testing
programmes of issuers of asset-referenced tokens or of e-money tokens

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁵⁷, and in particular Article 35(6), third subparagraph, thereof,

Whereas:

- (1) Requirements set out in Article 35(3) and (5) of Regulation (EU) 2023/1114 also apply to electronic money institutions issuing significant e-money tokens in accordance with Article 58(1), point (b), of that Regulation and, where required by the competent authority under Article 58(2) of that Regulation, to electronic money institutions issuing e-money tokens that are not significant.
- (2) When assessing the circumstances requiring higher own funds for issuers of asset-referenced tokens or e-money tokens, the competent authorities should consider the impact a failure of the tokens could have on financial stability, including large-scale redemptions, trigger of sales at extremely discounted prices due to financial distress of reserve assets or deposit withdrawals, potentially causing significant market disruptions, possible negative consequences for funding, and systemic risks across the financial system.
- (3) Given the novelty of asset-referenced tokens and e-money tokens and their issuers, no universal risks assessment framework exists. Therefore, when deciding whether an increase in own funds requirement is justified, competent authorities should perform the evaluation on any relevant issuers on a case-by-case basis following a broad assessment of all the relevant risk criteria set out in Article 35(3) of Regulation (EU) 2023/1114. Requiring a possible increase of own funds requirements should depend on issuer-specific circumstances. Issuers of asset-referenced tokens or e-money tokens that are subject to such own funds requirements should always be adequately capitalised for the risks they face. All relevant historical and current information available should be used for the said broad assessment and evaluation. Generally, increases in own funds requirements should only be requested when there is a higher degree of risk, which is not already covered, and the measures of the relevant issuer are insufficiently effective to reduce the risks.
- (4) Where a competent authority requires an increase in own funds requirements of the issuer of tokens, the timeframe provided to comply with such increase should be as short as possible since the relevant issuer, applying a proper and effective risk management, should always be adequately capitalised for the risks they face.

¹⁵⁷ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (5) Where a competent authority concludes that the risks, including volatility, of a particular asset-referenced token or e-money token might lead to a significant deterioration of the financial situation of the relevant issuer or impact its financial stability, the competent authority should set a shorter timeframe for the relevant issuer to increase the own funds.
- (6) To ensure that issuers of asset-referenced tokens or e-money tokens make sound risk management decisions, such issuers and their relevant competent authorities should understand the financial and operational risks that come with increased use of asset-referenced or e-money tokens. In addition, they should consider interlinkages with ecosystem of issuers of tokens more broadly and inherent interconnectedness with the traditional financial sector stemming from reserves of assets held. Therefore, it is necessary to further specify the stress testing of the solvency and liquidity risk of issuers.
- (7) The impact of the so called 'run-risk', meaning a sudden spike in redemption requests of the tokens, resulting in a fire sale of the reserve assets backing the tokens, should be analysed via liquidity stress-testing. It is, therefore, essential to specify minimum features of the liquidity stress-testing such as those related to governance, data infrastructure, risk categorisation and frequency.
- (8) To ensure that the results of the stress test remain relevant, solvency stress test should be carried out on a quarterly basis for issuers of significant asset-referenced tokens or e-money tokens, and on a semi-annual basis for issuers of non-significant asset-referenced tokens or e-money tokens. The liquidity stress test should be carried out monthly.
- (9) The stress testing should consider severe but plausible financial stress scenarios and non-financial stress scenarios, such as liquidity shocks, credit shocks, interest rate and exchange shocks, redemption risk and operational and third-party shocks. It should also ensure that the internal governance arrangements and the relevant data infrastructures are in place to allow issuers of asset-referenced tokens or e-money tokens and competent authorities to understand the characteristics, quantify risks and gather evidence that such issuers are effectively allocating and mitigating risk on an ongoing basis.
- (10) As a guiding principle, the stress testing programmes should follow similar rules and approach as to credit institutions stress testing under Directive 2013/36/EU of the European Parliament and of the Council¹⁵⁸. However, considering that the risks of crypto-asset activities provided by issuers of asset-referenced tokens or e-money tokens other than credit institutions are different to those of credit institutions, it is necessary to group the crypto-asset activities into different risk categories for the purpose of the stress testing. Furthermore, grouping the crypto-asset activities and risks should ensure that issuers of the relevant tokens and competent authorities are able to identify all the functions, processes, and actors, along with their associated risks including any environmental, social, and governance factors, and identify any potential issues or risks. These identifications should facilitate the design and assignment of specific risk scenarios presented in the different activities of the relevant issuer. The scenarios should be well-defined in order to quantify their potential impact, the range of potential losses and the range of plausibility associated with the specific risk scenarios identified. Therefore, when identifying specific risks, the relevant issuer should specify the timeline of the stress scenario, which should be three years for the solvency stress test and up to one year for the liquidity stress test.

¹⁵⁸ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>).

- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority (EBA).
- (12) The EBA has conducted open public consultations on the draft regulatory technical standards upon which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁵⁹,

HAS ADOPTED THIS REGULATION:

Article 1

Scope of application

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

- (a) issuers of asset-reference tokens;
- (b) electronic money institutions issuing significant e-money tokens;
- (c) electronic money institutions issuing e-money tokens that are not significant, where required by the competent authority under Article 58(2) of Regulation (EU) 2023/1114.

Article 2

Procedure

1. The competent authority of the home Member State ('the competent authority') shall provide an issuer of asset-referenced tokens or e-money tokens with the draft of its decision to require the increase of own funds in accordance with Article 35(3) of Regulation (EU) 2023/1114 taking due account of the views expressed by the relevant issuer.
2. The draft referred to in paragraph 1 shall set out:
 - (a) the amount by which the own funds must be increased and the percentage higher than the amount of reserve of assets resulting from the application of Article 35(1), first subparagraph, point (b), of Regulation (EU) 2023/1114;
 - (b) relevant reasoning as to the higher degree of risk;
 - (c) whether that higher degree of risk can have a material impact on the financial situation of the issuer or on the financial stability of the wider financial system;
 - (d) whether that higher degree of risk is independent from the relevant issuer's governance or business model;
 - (e) the timeframe within which the relevant issuer shall increase its own funds in accordance with Article 3.

¹⁵⁹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

3. The issuer of asset-referenced tokens or e-money tokens shall express its views on any of the elements referred to in paragraph 2 within 25 working days of receipt of the draft.
4. The competent authority shall notify the issuer of asset-referenced tokens or e-money tokens of its final decision containing the elements listed in paragraph 2.
5. The issuer of asset-referenced tokens or e-money tokens shall submit to the competent authority within 25 working days of receipt of the decision referred to in paragraph 4, a detailed plan on how its own funds are to be increased within the timeframe set by the competent authority. The plan shall contain the following:
 - (a) time-bound steps, specific measures and procedures to carry out the increase within the set timeframe;
 - (b) the confirmation that the envisaged use of own funds items and instruments to comply with the increased requirement fully meet the conditions set out in Article 35(2) of Regulation (EU) 2023/1114.
6. Where the timeframe referred to in Article 3 set for the completion of the increase of own funds is longer than three months, the issuer of asset-referenced tokens or e-money tokens shall inform the competent authorities on a monthly basis on the plan's implementation progress.
7. The issuer of asset-referenced tokens or e-money tokens shall inform the competent authority immediately in case any step or procedure cannot be achieved within the timeframe respecting the requirements set out in Article 3.
8. The competent authority shall closely monitor the implementation of the plan.
9. Where a college referred to in Article 119(1) of Regulation (EU) 2023/1114 has been set up, the competent authority shall keep the European Banking Authority informed of all the information referred to in paragraphs 2 to 8, including the draft and the final decision, the plan and any relevant updates.

Article 3

Timeframe

1. Without prejudice to paragraph 2, the competent authority shall set a timeframe for the issuer of asset-referenced tokens or e-money tokens to adjust to higher own fund requirements, set on the basis of the assessment by the competent authority referred to in Article 35(3) of Regulation (EU) 2023/1114, that cannot exceed six months from the notification of the final decision referred to in Article 2(4).
2. When the competent authority sets the timeframe for the issuer of asset-referenced tokens or e-money tokens to adjust to higher own fund requirements, it shall take into account any potential higher degree of risk that can have a material impact on the financial stability of the wider financial system or of the issuer and any potential deficiencies in relevant issuer's governance or business model.

Article 4

Criteria

When adopting the decision referred to in Article 35(3) of Regulation (EU) 2023/1114, the competent authority shall consider all the following risk assessment criteria:

- (a) whether the issuer of asset-referenced tokens or e-money tokens is likely to breach the requirements referred to in Article 34(1), (8) and (10) and Articles 36 to 39 of Regulation (EU) 2023/1114 within the

following 12 months by assessing whether there are potential deficiencies or weaknesses of the issuer of asset-referenced tokens or e-money tokens in applying all the requirements set out in Article 34 and in Articles 36 to 39 of Regulation (EU) 2023/1114;

- (b) whether redemption at par value and market value is ensured in normal or in stressed market circumstances;
- (c) whether there is an increased risk of a significant deterioration of the value of the reserve assets or the financial situation of the issuer of asset-referenced tokens or e-money tokens;
- (d) whether there is an increased operational risk arising from systems including the underlying distributed ledger and any trading platform, market infrastructure or payment system used for the issuance or the transfer of the token and from other third party crypto assets service providers such as custodians, which the tokens or reserve assets might rely on.

Article 5

Design of stress testing programme

1. Issuers of asset-referenced tokens or e-money tokens shall ensure that their stress testing programme is viable and realistic, and that stress testing results in informed decision-making at all management level on all existing and potential risks having material impact on the financial situation of the issuer.
2. Issuers of asset-referenced tokens or e-money tokens shall regularly review and assess their stress testing programme to determine its effectiveness, robustness and suitability both with regard to the risk characteristics of the relevant issuer itself and that of the relevant tokens issued and shall keep it updated. This assessment shall be made on an annual basis and shall fully reflect the external and internal conditions.
3. When designing the stress testing programme, issuers of asset-referenced tokens or e-money tokens shall consider all the following elements:
 - (a) the effectiveness of the programme in meeting its intended purposes;
 - (b) the need for improvements;
 - (c) the identified risk factors, reasoning for and design of relevant scenarios, model assumptions and the sensitivity of results to these assumptions, as well as the role of expert judgement to ensure that it is accompanied by sound analysis;
 - (d) the model performance, including its performance on out-of-sample data, such as data that were not used for model development;
 - (e) how to incorporate possible solvency-liquidity adverse loops;
 - (f) the adequacy of possible interlinkages between solvency stress tests and liquidity stress tests;
 - (g) feedback received from competent authorities in the context of their supervisory or other stress tests;
 - (h) the adequacy of the data infrastructure (systems implementation and data quality);
 - (i) the appropriate level of involvement of senior management and the management body;

- (j) all assumptions including business and/or managerial assumptions, and management actions envisaged, based on the purpose, type and result of the stress testing, including an assessment of the feasibility of management actions in stress situations and a changing business environment;
 - (k) the adequacy and transparency of the relevant documentation.
4. The stress testing programme shall be appropriately documented for all types of stress tests carried out.
 5. The stress testing programme shall be evaluated across the organisation, for instance by the risk committee and internal auditors. Business units not responsible for the design and application of the programme or external experts shall also contribute to the assessment of this process, taking into account the relevant expertise for specific subjects.
 6. Issuers of asset-referenced tokens or e-money tokens shall ensure, both for the initial design and for the assessment of the stress testing programme, that an effective dialogue has taken place with the involvement of experts from all business areas of the issuer and that the programme and its updates have been properly reviewed by the senior management and management body of the issuer, who are also responsible for monitoring its execution and oversight.

Article 6

Type of stress testing

1. Issuers of asset-referenced tokens or e-money tokens shall implement a solvency stress test and a liquidity stress test.
2. The solvency stress test shall capture the impact of certain developments including macro or microeconomic scenarios, on the overall capital position of the issuer of asset-referenced tokens or e-money tokens, including on its minimum or additional own funds requirements, by means of projecting the issuers' capital resources and requirements, highlighting the issuer' vulnerabilities and assessing its capacity to absorb losses and the impact on its solvency positions.
3. The liquidity stress test shall capture the impact of certain developments including macro or microeconomic scenarios, from a funding and market risk perspective and shocks to the liquidity of the reserve of assets and to the overall liquidity position of the issuer of asset-referenced tokens or e-money tokens, including to its minimum or additional liquidity requirements.
4. The specific design, complexity and level of detail of the stress test methodologies shall be appropriate to the nature of the asset-referenced token or e-money token, including redemption rights' nature, scale and size, as well as the complexity, concentration and composition of its reserve assets.

Article 7

Minimum frequency of the different stress testing exercises

1. The frequency for solvency stress test shall be, at least, quarterly for issuers of significant asset-referenced tokens or e-money tokens and semi-annual for issuers of non-significant asset-referenced tokens or e-money tokens.
2. The frequency of liquidity stress test shall be, at least, monthly for all issuers of asset-referenced tokens or e-money tokens.

Article 8

Internal governance arrangements under the stress testing exercises

1. The stress testing programme of the issuer of asset-referenced tokens or e-money tokens shall be adopted by its management body, which shall be responsible for its implementation in accordance with this Regulation and with Regulation (EU) 2023/1114.
2. The stress testing programme shall include an assessment as to whether the members of the management body collectively have sufficient knowledge, skills and experience to perform all the following:
 - (a) fully understand the impact of stress events on the overall risk profile of the issuer;
 - (b) ensure that clear responsibilities and sufficient resources such as skilled human resources and information technology systems, have been assigned and allocated for the execution of the stress tests;
 - (c) actively engage in discussions with staff involved in stress testing and with persons to whom tasks related to stress testing are outsourced;
 - (d) challenge key modelling assumptions, the scenario selection and the assumptions underlying the stress tests in general;
 - (e) decide on the necessary management actions and discuss them with the competent authorities.
3. The stress testing programme shall be designed in a way which allows stress tests to be executed in accordance with the relevant internal policies and procedures of the issuer.
4. Issuers of asset-referenced tokens or e-money tokens shall ensure that all elements of the stress testing programme, including its assessment, are appropriately documented and regularly updated, where relevant, in the internal policies and procedures.
5. Issuers of asset-referenced tokens or e-money tokens shall ensure that the stress testing programme design foresees an effective communication across business lines and management levels, with a view to raising awareness, improving risk culture and instigating discussions on existing and potential risks as well as on possible management actions.
6. The stress testing programme shall be designed as an integral part of an issuer's risk management framework. Stress tests shall be designed to support different business decisions and processes as well as strategic planning. The strategic decisions shall take into account the shortcomings, limitations and vulnerabilities identified during stress testing.
7. The outputs of stress tests shall be used as inputs to the process of establishing an issuer's risk appetite and limits and shall act as a planning tool to determine the effectiveness of new and existing business strategies and assess the possible impact on own funds and liquidity.

Article 9

Relevant data infrastructure for stress testing programmes

1. Issuers of asset-referenced tokens or e-money tokens shall ensure that the stress testing programme is supported by an adequate and transparent data infrastructure.

2. Issuers of asset-referenced tokens or e-money tokens shall ensure that their data infrastructure has the capacity to capture the extensive data needs of their stress testing programme and that they have in place mechanisms to ensure a continuous and consistent ability to conduct stress testing as planned in accordance with the programme.
3. Issuers of asset-referenced tokens or e-money tokens shall ensure that the data infrastructure allows for both flexibility and appropriate levels of quality and control.
4. Issuers of asset-referenced tokens or e-money tokens shall ensure that their data infrastructure is proportionate to their size, complexity, and risk and business profile, and allows for the performance of stress tests covering all material risks that the institution is exposed to.
5. Issuers of asset-referenced tokens or e-money tokens shall devote sufficient human, financial and material resources to guarantee the effective development and maintenance of their data infrastructure, including information technology systems.

Article 10

Methodology, common reference parameters and the plausibility of assumptions

1. Issuers of asset-referenced tokens or e-money tokens shall identify the following risks categories:
 - (a) risks to the value, transferability, liquidity, accessibility or exchangeability of the asset-referenced tokens or e-money tokens and reserve assets;
 - (b) risks arising from systems, on which the asset-referenced token or e-money token relies, including the underlying distributed ledger or any other technology of the token and any trading platform, market infrastructure or payment system used for the issuance or the transfer of the tokens;
 - (c) risks arising from the performance of contractual arrangements, which the relevant issuer has entered into with other issuers, crypto-asset service providers, financial institutions or any other natural or legal person, for the issuance or transfer of the tokens or for the establishment, management, custody or investment of the reserve assets, including any arrangement whereby the issuer outsources tasks.
2. To assess the risks referred to in paragraph 1, issuers of asset-referenced tokens or e-money tokens shall identify specific risk scenarios using historical scenarios and/or hypothetical scenarios in relation to the different risk categories referred to in paragraph 1.
3. The specific risk scenarios referred to in paragraph 2 shall be well-defined and their potential impact shall be quantifiable.
4. When identifying specific risks, issuers of asset-referenced tokens or e-money tokens shall specify a time horizon for 3 years for the risk events relating to the solvency stress test and up to 1 year for the liquidity stress test, the asset at risk and a precise description of the risk scenario.
5. Issuers of asset-referenced tokens or e-money tokens shall quantify or have approximate estimations of the severity and plausibility of the stress scenarios identified as well as the potential losses coming from those scenarios.

Article 11

Entry into force

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

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

Done at Brussels, 13 December 2024.

APPENDIX 17: COMMISSION DELEGATED REGULATION (EU) 2025/416**of 29 November 2024****supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content and format of order book records for crypto-asset service providers operating a trading platform for crypto-assets**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁶⁰, and in particular Article 76(16), third subparagraph thereof,

Whereas:

- (1) To enable competent authorities to perform effective and efficient collation, comparison and analysis of the order data, crypto-asset service providers operating platforms for crypto-assets should keep records of relevant data relating to all orders (order book records) in accordance with this Regulation. They should record the data in an electronic and machine-readable JSON format developed in accordance with the ISO 20022 methodology. An order book should be considered an organised list of buy and sell orders for a specific crypto-asset.
- (2) To properly monitor the integrity and stability of the markets in crypto-assets, competent authorities need reliable, consistent and standardised information on the crypto-assets that are traded. Such information should allow them to identify the individual crypto-asset being traded according to internationally established principles. In addition, they should be able to retrieve the main characteristics of the crypto-assets, including their technology-specific features. Crypto-asset service providers should therefore use an appropriate asset identifier to identify crypto-assets in the order and transactions records that they provide to competent authorities. In light of that objective, the use of the Digital Token Identifier (DTI) managed by the Digital Token Identifier Foundation, or alternative eligible identifiers is provided for in Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b) to identify crypto assets that are the subject of an order or transaction to be recorded by the crypto-asset service provider. In light of those considerations and to ensure a consistent supervisory approach, it is appropriate to provide for the use of asset identifiers in this Regulation under the same conditions as in Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b).
- (3) It is possible that market abuse behaviours, including market manipulation, are carried out through various means, including algorithmic trading. Therefore, to ensure effective market surveillance, where investment decisions are made by a person other than the client or by a computer algorithm, that person or algorithm should be identified in the order and transaction records using unique, robust and consistent identifiers.

¹⁶⁰ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

Where more than one person make an investment decision, the crypto-asset service provider should identify in its records the person with primary responsibility for the decision.

- (4) To ensure unique, consistent and robust identification of natural persons referred to in order records, those should be identified by a concatenation of the country of their nationality followed by identifiers assigned by the country of nationality of those persons. Where those identifiers are not available, natural persons should be identified by identifiers created from a concatenation of their date of birth and name. The identification of natural persons should be conducted following the level of prioritisation of different identifiers detailed in Annex II of Commission Delegated Regulation (EU) 2017/590¹⁶¹.
- (5) It is possible that natural persons that need to be identified for record keeping are residents of a country other than the one of their nationality. Several obligations under Regulation (EU) 2023/1114 are linked to the country of residence of natural persons and collecting that information under this Regulation is therefore important to ensure effective supervision of transactions and orders by competent authorities.
- (6) It is necessary that certain personal data are recorded by crypto-asset service providers to identify their clients or other natural persons relevant for orders in crypto-assets, as these data are fundamental to ensure efficient supervision by competent authorities, including in the area of market abuse. In compliance with the principle of data minimisation set out in Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁶², crypto-asset service providers should keep only information that is necessary and sufficient to enable the competent authority to carry out a comprehensive assessment of the crypto-asset service provider's compliance with the requirements of Regulation (EU) 2023/1114 and to monitor the trading activity relating to crypto-assets orders. When processing personal data included in the records, crypto-asset service providers and competent authorities should comply with the relevant provisions of Regulation (EU) 2016/679.
- (7) To facilitate market surveillance and allow comparability of the records, clients that are legal entities should be identified with an identifier that is compatible with the internationally established criteria for the development of robust identification systems for the monitoring of financial markets. With a view to ensuring a consistent supervisory approach, the entity identifiers provided for in Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b), it is appropriate to provide for the use of entity identifiers in this Regulation under the same conditions as in that Regulation.
- (8) Making a choice as to which crypto-asset trading platform to execute orders on or which crypto-asset service provider to transmit orders to, or determining any other conditions related to the execution of the order can be directly relevant for establishing market abuse behaviour. Therefore, to ensure effective market surveillance, a person or computer algorithm within the crypto-asset service provider that is performing such activities should be identified in the order records. Where both a person and computer algorithm are involved, or more than one person or algorithm are involved, the crypto-asset service provider should determine, on a consistent basis following predetermined criteria, which person or algorithm is primarily responsible for those activities.

¹⁶¹ Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (OJ L 87, 31.3.2017, p. 449, ELI: http://data.europa.eu/eli/reg_del/2017/590/oj).

¹⁶² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

- (9) In compliance with the principle of data minimisation, the crypto-asset service provider should keep only information that is necessary and sufficient to enable the competent authority to carry out a comprehensive assessment of the crypto-asset service provider's compliance with the relevant requirements of Regulation (EU) 2023/1114 and with that Regulation's provisions on market abuse. When processing personal data included in the records, crypto-asset service providers and competent authorities should comply with the relevant provisions of Regulation (EU) 2016/679.
- (10) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁶³ and delivered an opinion on 28 August 2024.
- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA').
- (12) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁶⁴,

HAS ADOPTED THIS REGULATION:

Article 1

Content, standards and format of data relating to orders in crypto-assets

1. Crypto-asset service providers operating a trading platform for crypto-assets shall keep at the disposal of the competent authority, or give the competent authority access to the details of each order in crypto-assets advertised through their systems set out in Articles 2 to 15, as specified in the format laid down in Tables 2 and 3 of the Annex, insofar as they pertain to the order concerned.
2. The data referred to in paragraph 1 shall be in a JSON format in accordance with the methodology laid out in standard ISO 20022.

Article 2

Identification of the parties involved in the order

1. For all orders in crypto-assets, crypto-asset service providers operating a trading platform for crypto-assets shall keep records to identify all of the following:
 - (a) the participant to the trading platform for crypto-assets that is a legal entity and submits the order to the trading platform for crypto-assets, as identified in accordance with Article 4 and field 1 of Table 2 of the Annex;

¹⁶³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

¹⁶⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

- (b) the participant to the trading platform for crypto-assets who is a natural person and submits the order to the trading platform for crypto-assets, as identified in accordance with field 2 of Table 2 of the Annex;
- (c) the client on whose behalf the participant to the trading platform for crypto-assets referred to in points (a) or (b) submits the order to the trading platform for crypto-assets, as identified in accordance with field 3 of Table 2 of the Annex;
- (d) the person or the computer algorithm within the participant to the trading platform for crypto-assets referred to in points (a) and (b) that is responsible for the investment decision in relation to the order, as identified in accordance with field 4 of Table 2 of the Annex;
- (e) the person or the computer algorithm within the participant to the trading platform for crypto-assets referred to in points (a) and (b) that is responsible for the execution of the order, as identified in accordance with field 5 of Table 2 of the Annex.

For the purposes of point (d), where more than one person take the investment decision, the crypto-asset service provider operating a trading platform for crypto-assets shall keep records of the person with primary responsibility for that decision. A crypto-asset service provider operating a trading platform for crypto-assets shall only identify such a person or computer algorithm where the investment decision is made on behalf of either the participant, or a client in accordance with a discretionary mandate to it by the client.

2. Where a participant to the trading platform for crypto-assets intends to allocate an order to its client following submission of the order to the trading platform for crypto-assets and has not yet allocated the order to its client at the time of the submission of the order, that client shall be identified as specified in field 3 of Table 2 of the Annex.

3. Where several orders of different clients are submitted to the trading platform for crypto-assets together as an aggregated order, the information referred to in field 3 of Table 2 of the Annex shall be recorded in respect of each client.

Article 3

Designation to identify natural persons

1. Crypto-asset service provider operating a trading platform for crypto-assets shall identify natural persons in the order book records by using the designation resulting from the concatenation of the ISO 3166-1 alpha-2 specified in ISO 3166 followed by the national client identifier as specified in Annex II of Delegated Regulation (EU) 2017/590 based on the nationality of the person. The two-letter country code shall correspond to the nationality of natural person.

2. The national client identifier referred to in paragraph 1 shall be assigned in accordance with the priority levels provided in Annex II of Delegated Regulation (EU) 2017/590 using the highest priority identifier that a person has regardless of whether that identifier is already known to the crypto-asset service provider operating a trading platform for crypto-assets.

3. Where a natural person is a national of more than one European Economic Area (EEA) country, the country code of the first nationality when sorted alphabetically by its ISO 3166-1 alpha-2 code and the identifier of that nationality assigned in accordance with paragraph 2 shall be used. Where a natural person has a non-EEA nationality, the highest priority identifier in accordance with the field referring to 'all other countries' provided in Annex II of Delegated Regulation (EU) 2017/590 shall be used. Where a natural person has an EEA and a non-EEA nationality, the country code of the EEA nationality and the highest priority identifier of that nationality assigned in accordance with paragraph 2 shall be used.

4. Where a natural person is a resident of a country other than the one of its nationality, crypto-asset service providers operating a trading platform for crypto-assets shall also identify that natural person based on the country of its residence as specified in field 50 of Table 2 of the Annex.
5. Prefixes to names shall be excluded and first names and surnames shorter than five characters shall be appended by '#'. All characters shall be in upper case. No apostrophes, accents, hyphens, punctuation marks or spaces shall be used.
6. Where the identifier assigned in accordance with paragraph 2 is based on CONCAT, the natural person shall be identified by the crypto-asset service provider operating a trading platform for crypto-assets using the concatenation of the following elements in the following order:
 - (a) the date of birth of that person in the format YYYYMMDD;
 - (b) the five first characters of the first name of that person;
 - (c) the five first characters of the surname of that person.

Article 4

Identifiers for legal entities and crypto-assets

1. Crypto-asset service providers operating a trading platform for crypto-assets shall identify legal entities in order book records by using the entity identifier in accordance with Article 14 of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b).
2. Crypto-asset service providers operating a trading platform for crypto-assets shall identify crypto-assets in order book records by using the asset identifiers in accordance with Article 15 of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b).
3. Where using the Legal Entity Identifier (LEI) to identify legal entities in accordance with paragraph 1, the crypto-asset service provider operating a trading platform for crypto-assets shall ensure that the length and construction of the LEI code recorded in the order book records is compliant with the ISO 17442 standard and that the LEI code is included in the Global LEI database maintained by the Central Operating Unit appointed by the Regulatory Oversight Committee, and refers to the entity concerned.

Article 5

Trading capacity of participants of the trading platform for crypto-assets

The trading capacity in which the participant of the trading platform for crypto-assets submits an order shall be recorded as specified in field 7 of Table 2 of the Annex.

Article 6

Date and time recording

1. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of the date and time of the occurrence of each event listed in field 20 of Table 2 of the Annex as specified in field 8 of Table 2 of the Annex.

2. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of the date and time for each data element listed in fields 47, 48 and 49 of Table 2 of the Annex, as specified in field 8 of Table 2 of the Annex.

Article 7

Validity period and order restrictions

1. Crypto-asset service providers operating a trading platform for crypto-assets shall keep a record of the validity periods and order restrictions that are listed in fields 9 and 10 of Table 2 of the Annex.
2. Records of the dates and times in respect of validity periods shall be maintained for each validity period as specified in field 11 of Table 2 of the Annex.

Article 8

Priority and sequence numbers

1. Crypto-asset service providers operating a trading platform for crypto-assets which operate trading systems on a price visibility-time priority shall maintain a record of the priority time stamp for all orders as specified in field 12 of Table 2 of the Annex.
2. Crypto-asset service providers operating a trading platform for crypto-assets which operate trading systems on a size-time priority basis shall maintain a record of the quantities which determine the priority of orders as specified in field 13 of Table 2 of the Annex and the priority time stamp referred to in paragraph 1.
3. Crypto-asset service providers operating a trading platform for crypto-assets which use a combination of price-visibility-time priority and size-time priority and display orders on their order book in time priority shall maintain a record of the priority time stamp for all orders as specified in field 12 of Table 2 of the Annex.
4. Crypto-asset service providers operating a trading platform for crypto-assets which use a combination of price-visibility-time priority and size-time priority and display orders on their order book in size-time priority shall maintain a record of the quantities which determine the priority of orders as specified in field 13 of Table 2 of the Annex and the priority time stamp referred to in paragraph 1.
5. Crypto-asset service providers operating a trading platform for crypto-assets shall assign and maintain a sequence number for each event as specified in field 14 of Table 2 of the Annex.

Article 9

Identification codes for orders in crypto-assets

1. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain an individual identification code for each order as specified in field 19 of Table 2 of the Annex. The identification code shall be unique per following:
 - (a) order book;
 - (b) trading day; and
 - (c) crypto-asset.

The code shall be valid starting from the receipt of the order by the operator of the trading platform for crypto-assets until the removal of the order from the order book. The identification code shall apply to rejected orders irrespective of the ground for their rejection.

2. The operator of the trading platform for crypto-assets shall maintain the relevant details of strategy orders with implied functionality ('SOIF') that are disseminated to the public as specified in field 31 of Table 2 of the Annex. The order status referred to in that field shall specify whether the order is an implicit order.
3. Upon execution of a SOIF, its details shall be maintained by the operator of the trading platform for crypto-assets as specified in the relevant fields in Table 2 of the Annex.
4. Upon execution of a SOIF, a strategy linked order identification code shall be indicated using the same identification code for all orders connected to the particular strategy. The strategy linked order identification code shall be specified in accordance with field 44 of Table 2 of the Annex.
5. Orders submitted to a trading platform for crypto-assets allowing for a routing strategy shall be identified by that trading platform for crypto-assets as 'routed' as specified in field 31 of Table 2 of the Annex when they are routed to another trading platform for crypto-assets. Orders submitted to a trading platform for crypto-assets allowing for a routing strategy shall retain the same identification code for their lifetime, regardless of whether any remaining quantity is re-posted on the order book.

Article 10

Events affecting the orders in crypto-assets

Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of the details referred to in field 20 of Table 2 of the Annex in relation to all new orders.

Article 11

Type of order in crypto-assets

1. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of the order type for each order received using their own specification as specified in field 21 of Table 2 of the Annex.
2. Crypto-asset service providers operating a trading platform for crypto-assets shall classify each order received either as a limit order or as a stop order as specified in field 22 of Table 2 of the Annex.

Article 12

Prices relating to orders

Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of all price-related details referring to the respective orders, as specified in Section I of Table 2 of the Annex.

Article 13

Order instructions

Crypto-asset service providers operating a trading platform for crypto-assets shall maintain records of all order instructions received for each order as specified in Section J of Table 2 of the Annex.

Article 14

Transaction identification code

Crypto-asset service providers operating a trading platform for crypto-assets shall maintain an individual transaction identification code for each transaction resulting from the full or partial execution of an order as specified in field 46 of Table 2 and field 1 of Table 3 of the Annex, as applicable.

Article 15

Trading phases and indicative auction price and volume

1. Crypto-asset service providers operating a trading platform for crypto-assets shall maintain a record of the trading phases and indicative auction price and volume, as specified in Section K of Table 2 of the Annex.
2. Where competent authorities request details referred to in Section K, it shall be considered that the details referred to in fields 8 and 14 to 17 of Table 2 of the Annex are to be provided based on that request.

Article 16

Entry into force

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

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

Done at Brussels, 29 November 2024.

ANNEX*Table 1***Legend for Table 2 and Table 3**

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{CFI_CODE}	6 characters	ISO 10962 CFI code.
{COUNTRYCODE_2}	2 alphanumerical characters	2-letter country code, as specified by ISO 3166-1 alpha-2 country code
{CURRENCYCODE_3}	3 alphanumerical characters	3-letter currency code, as specified by ISO 4217 currency codes
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.dddZ, where: — 'YYYY' is the year; — 'MM' is the month; — 'DD' is the day; — 'T' – means that the letter 'T' shall be used; — 'hh' is the hour; — 'mm' is the minute; — 'ss.ddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{DATEFORMAT}	ISO 8601 date format	Dates shall be formatted in the following format: YYYY-MM-DD.

{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — negative numbers are prefixed with '-' (minus); Values are rounded and not truncated.
{DTI}	9 alphanumerical characters	ISO 24165 DTI code assigned to fungible digital assets which uses distributed ledger technology for its issuance, storage, exchange, record of ownership or transaction validation and is not a currency (ISO 4217) as described in ISO 24165 – DTI.
{DTI_SHORT_NAME}	n alphanumeric characters	DTI short name as registered according to the ISO 24165-2 data elements for registration of the DTI.
{INTEGER-n}	Integer number of up to n digits in total	Numerical field for both positive and negative integer values.
{ISIN}	12 alphanumerical characters	ISIN code, as specified in ISO 6166.
{LEI}	20 alphanumerical characters	Legal entity identifier as specified in ISO 17442.
{MIC}	4 alphanumerical characters	Market identifier as specified in ISO 10383.
{NATIONAL_ID}	35 alphanumerical characters	The identifier shall be derived in accordance with Article 3 of this Regulation and Annex II of Delegated Regulation (EU) 2017/590.

Table 2

Field Number	Field Name	Field description	Details of the order book
Section A – Identification of the relevant parties			
1	Identification of the entity which submitted the order	The Legal Entity Identifier of the participant of the trading platform operated by the crypto-asset service provider or equivalent identifiers specified in Article 4.	{LEI} {ALPHANUM-20}
2	Identification of the natural person that submitted the order	The identity of the participant of the trading platform operated by the crypto-asset service provider. This field only applies to natural persons.	{NATIONAL_ID}

3	Client identification code	Code used to identify the client of the participant to the trading platform for crypto-assets. Where the client is a legal entity, the LEI code or the alternative identifier referred to in Article 4, {ALPHANUM-20} of the client shall be used. Where the client is not a legal entity, the code {NATIONAL_ID} shall be used. In case of pending allocations, the flag PNAL shall be used. This field shall be populated with 'NOAP' only where the participant of the crypto-asset service provider operating a trading platform for crypto-assets has a direct interest to buy or sell.	{LEI} {ALPHANUM-20} {NATIONAL_ID} 'PNAL' 'NOAP'
4	Investment decision within the crypto asset service provider	Code used to identify the person or the computer algorithm within the crypto-asset service provider that is responsible for the investment decision. Where a natural person within the crypto-asset service provider is responsible for the investment decision the person who is responsible for the investment decision shall be identified with the {NATIONAL_ID}. Where an algorithm automatically determining individual parameters of orders was responsible for the investment decision, the field shall be populated with a code assigned in accordance with Article 2. This field shall be left blank when the investment decision was not made by a person or computer algorithm within the crypto-asset service provider.	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms
5	Execution within firm	Code used to identify the person or algorithm within the crypto-asset service provider that is responsible for the execution of the transaction resulting from the order. This field is not applicable when the executing entity is a natural person. Where a natural person is responsible for the execution of the transaction, that person shall be identified by {NATIONAL_ID} Where an algorithm automatically determining individual parameters of orders such as whether to initiate the order or its the timing, price or quantity is responsible for the execution of the transaction, this field shall be populated with a code assigned by the crypto-asset service provider, in accordance with Article 4. Where more than one person or a combination of persons and algorithms are involved in the execution of the transaction, the crypto-asset service provider shall determine the person or algorithm	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms

		primarily responsible and populate this field with the identity of that person or algorithm.	
6	Non-executing broker	The code used to identify a participant of the trading platform for crypto-assets that routed an order on behalf of and in the name of another participant of the trading platform for crypto-assets. This field shall be 'NOAP' where not relevant.	LEI {ALPHANUM-20} 'NOAP'
Section B – Trading capacity and liquidity provision			
7	Trading capacity	Indicates whether the crypto-asset service provider undertaking the transaction is carrying out matched principal trading or exchanging crypto-assets for funds. Where the order submission does not result from the crypto-asset service provider carrying out matched principal trading or exchanging crypto-assets for funds, the field shall indicate that the transaction was carried out under any other capacity.	'DEAL' – Exchanging crypto-assets for funds 'MTCH' – Matched principal 'AOTC' – Any other capacity
Section C – Date and time			
8	Date and time	The date and time for each event listed in Sections G and K of this Table.	{DATE_TIME_FORMAT}
Section D – Validity period and order restrictions			
9	Validity period	Good-For-Day: the order expires at the end of the trading day on which it was entered in the order book. Good-Till-Cancelled: the order will remain active in the order book and be executable until it is actually cancelled. Good-Till-Time: the order expires at the latest at a pre-determined time within the current trading session. Good-Till-Date: the order expires at the end of a specified date. Good-Till-Specified Date and Time: the order expires at a specified date and time. Good After Time: the order is only active after a pre-determined time within the current trading session. Good After Date: the order is only active from the beginning of a pre-determined date. Good After Specified Date and Time: the order is only active from a pre-determined time on a pre-	'DAVY' – Good-For-Day 'GTCV' – Good-Till-Cancelled 'GTTV' – Good-Till-Time 'GTDV' – Good-Till-Date 'GTSV' – Good-Till-Specified Date and Time 'GATV' – Good After Time 'GADV' – Good After Date 'GASV' – Good After Specified Date and Time 'IOCV' – Immediate-Or-Cancel

		determined date. Immediate-Or-Cancel: an order which is executed upon its entering into the order book (for the or quantity that can be executed) and which does not remain in the order book for the remaining quantity (if any) that has not been executed. Fill-Or-Kill: an order which is executed upon its entering into the order book provided that it can be fully filled; in the event the order can only be partially executed, then it is automatically rejected and cannot therefore be executed. Other: any additional indications that are unique for specific business models, trading platforms or systems.	'FOKV' – Fill-Or-Kill {ALPHANUM-4} characters not already in use for the trading platform for crypto-assets' own classification.
10	Order restriction	Good For Closing Price Crossing Session: where an order qualifies for the closing price crossing session. Valid For Auction: the order is only active and can only be executed at auction phases (which can be pre-defined by the crypto-asset service provider client who submitted the order, e.g. opening and closing auctions and/or intraday auction). Valid For Continuous Trading only: the order is only active during continuous trading. Other: any additional indications that are unique for specific business models, trading platforms or systems.	'SESR' – Good For Closing Price Crossing Session 'VFAR' – Valid For Auction 'VFCR' – Valid For Continuous Trading only {ALPHANUM-4} characters not already in use for the trading platform for crypto-assets' own classification. This field shall be populated with multiple flags separated by a comma where more than one flag is applicable.
11	Validity period and time	This field refers to the time stamp reflecting the time on which the order becomes active or it is ultimately removed from the order book. Good for day: the date of entry with the timestamp immediately prior to midnight. Good till time: the date of entry and the time to that specified in the order. Good till date: will be the specified date of expiry with the timestamp immediately prior to midnight.	{DATE_TIME_FORMAT}

		Good till specified date and time: the specified date and time of expiry. Good after time: the date of entry and the specified time at which the order becomes active. Good after date: the specified date with the timestamp immediately after midnight. Good after specified date and time: the specified date and time at which the order becomes active. Good till cancel: the ultimate date and time the order is automatically removed by market operations. Other: timestamp for any additional validity type.	
Section E – Priority and sequence number			
12	Priority time stamp	This field shall be updated every time the priority of an order changes.	{DATE_TIME_FORMAT}
13	Priority size	For trading platforms for crypto-assets which use size-time priority, this field shall be populated with a positive number corresponding to the quantity. This field shall be updated every time the priority of the order changes.	Up to 20 numeric positive digits.
14	Sequence number	Each event listed in section G shall be identified using positive integers in ascending order. The sequence number shall be unique to each type of event; consistent across all events, timestamped by the operator of the trading platform for crypto-assets; persistent for the date that the event occurs.	{INTEGER-50}
Section F – Identification of the order			
15	Segment MIC	Identification of the trading platform for crypto-asset where the order was submitted. If the trading platform for crypto-asset uses segment MICs then the segment MIC shall be used. If the trading platform for crypto-asset does not use segment MICs then the operating MIC shall be used.	{MIC}
16	Order book code	The alphanumerical code established by the trading platform for crypto-assets for each order book.	{ALPHANUM-20}
17	Crypto-asset identification code	Unique and unambiguous identifier of the crypto-asset in accordance with Article 4.	{DTI} {ALPHANUM-20}
18	Date of receipt	Date of receipt of the original order.	{DATEFORMAT}
19	Order identification code	An alphanumerical code assigned by the operator of the trading platform for crypto-assets to the	{ALPHANUM-50}

		individual order.	
Section G – Events affecting the order			
20	New order, order modification, order cancellation, order rejections, partial or full execution	New order: submission of a new order to the crypto-asset service provider operating the trading platform for crypto-assets. Triggered: an order which becomes executable or, as the case may be, non-executable upon the realisation of a pre-determined condition. Replaced by the participant of the trading platform for crypto-assets: where a participant or client of the trading platform for crypto-assets decides upon its own initiative to change any characteristic of the order it has previously entered into the order book. Replaced by market operations (automatic): where any characteristic of an order is changed by the trading platform for crypto-assets operator's ICT systems. This includes where a peg order's or a trailing stop order's current characteristics are changed to reflect how the order is located within the order book. Replaced by market operations (human intervention): where any characteristic of an order is changed by a trading platform for crypto-assets operator's staff. This includes the situation where a participant of the trading platform for crypto-assets requests to urgently cancel the orders linked to ICT incidents. Change of status at the initiative of the participant of the trading platform for crypto-assets. This includes activation and deactivation. Change of status due to market operations. Cancelled upon the initiative of the participant of the trading platform for crypto-assets: where a participant or client decides upon its own initiative to cancel the order it has previously entered. Cancelled by market operations. Rejected order: an order received but rejected by the operator of the trading platform for crypto-assets. Expired order: where the order is removed from the order book upon the end of its validity period. Partially filled: where the order is not fully executed so that there remains a quantity to be executed.	'NEWO' – New order 'TRIG' – Triggered 'REME' – Replaced by the member or participant of the trading platform for crypto-assets 'REMA' – Replaced by market operations (automatic) 'REMH' – Replaced by market operations (human intervention) 'CHME' – Change of status at the initiative of the participant of the trading platform for crypto-assets 'CHMO' – Change of status due to market operations 'CAME' – Cancelled at the initiative of the participant of the trading platform for crypto-assets 'CAMO' -Cancelled by market operations 'REMO' – Rejected order 'EXPI' – Expired order 'PARF' – Partially filled 'FILL' – Filled {ALPHANUM-4} characters not

		Filled: where there is no more quantity to be executed.	already in use for the trading platform for crypto-assets' own classification.
Section H – Type of order			
21	Order type	Identifies the type of order submitted to the trading platform for crypto-assets as per the trading platform for crypto-assets' specifications.	{ALPHANUM-50}
22	Order type classification	Classification of the order according to two generic order types. LIMIT order: in the cases where the order is tradable; and STOP order: in the cases where the order becomes tradable only upon the realisation of a pre-determined price event.	The letters 'LMTO' for limit or the letters 'STOP' for stop.
Section I – Prices			
23	Limit price	The maximum price at which a buy order can trade or the minimum price at which a sell order can trade. The spread price for a strategy order. It can be negative or positive. This field shall be 'NOAP' where not relevant. Where price is reported in monetary terms, it shall be provided in the major currency unit. If the crypto-asset is traded based on a currency pair the price shall express the quantity of the quote currency for one unit of the base currency. If the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} in case the price is expressed as monetary value. {DECIMAL-11/10} in case the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points. 'NOAP'
24	Additional limit price	Any other limit price which may apply to the order. This field shall be 'NOAP' where not relevant. Where price is reported in monetary terms, it shall be provided in the major currency unit. If the crypto-asset is traded based on a currency pair the price shall express the quantity of the quote currency for one unit of the base currency. If the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points.

			'NOAP'
25	Stop price	The price that must be reached for the order to become active. For stop orders triggered by events independent of the price of the crypto-asset, this field shall be populated with a stop price equal to zero. This field shall be 'NOAP' where not relevant. Where price is reported in monetary terms, it shall be provided in the major currency unit. If the crypto-asset is traded based on a currency pair the price shall express the quantity of the quote currency for one unit of the base currency. If the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points. 'NOAP'
26	Pegged limit price	The maximum price at which a pegged order to buy can trade or the minimum price at which a pegged order to sell can trade. This field shall be 'NOAP' where not relevant. Where price is reported in monetary terms, it shall be provided in the major currency unit. If the crypto-asset is traded based on a currency pair the price shall express the quantity of the quote currency for one unit of the base currency. If the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points. 'NOAP'
27	Transaction price	Traded price of the transaction excluding, where applicable, commission, other fees and accrued interest. Where price is not applicable the field shall be populated with the value 'NOAP'. Where price is recorded in monetary terms, it shall be provided in the major currency unit. If the crypto-asset is traded based on a currency pair the price shall express the quantity of the quote currency for one unit of the base currency.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points. 'NOAP'

28	Price currency	Currency in which the trading price for the crypto-asset related to the order is expressed (applicable where the price is expressed as monetary value). Where the crypto-asset is traded in electronic money/e-money token, digital token identifiers as specified in Article 4 shall be used. Where price of the crypto-asset is expressed in monetary terms and it is expressed in a currency pair, the currency pair in which the price for the crypto-asset related to the order is expressed shall be reported. The first currency code shall be that of the base currency and the second currency code shall be that of the quote currency. The quote currency determines the price of one unit of the base currency. The ISO currency code and the DTI short name as registered according to the ISO 24165-2 data elements for registration of the DTI or the alternative equivalent identifier referred to in Article 4 shall be used to represent the fiat currency and the crypto asset respectively in the currency pair.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20} {CURRENCYCODE_3} should be used for fiat currencies in a currency pair {DTI_SHORT_NAME} should be used for crypto assets in a currency pair 'NOAP'
29	Price notation	Indicates whether the price is expressed in monetary value, in percentage, in yield, in basis points or in crypto-assets.	'MONE' – Monetary value 'PERC' – Percentage 'YIEL' – Yield 'BAPO' – Basis points
Section J – Order instructions			
30	Buy-sell indicator	To record if the order is to buy or sell.	'BUYI' – buy 'SELL' – sell
31	Order status	To identify orders that are active/inactive/suspended, firm/indicative (assigned to quotes only)/implicit/rerouted. Active – non-quote orders that are tradable. Inactive – non-quote orders that are not tradable. Firm/Indicative – Assigned to quotes only. Indicative quotes mean that they are visible but cannot be executed. This includes warrants in some trading platform for crypto-assets. Firm quotes can be executed. Implicit – Used for strategy orders that are derived from implied in or implied out functionality.	'ACTI' – active or 'INAC' – inactive or 'FIRM' – firm quotes or 'INDI' – indicative quotes

		Routed – Used for orders that are routed by the trading platform for crypto-assets to other venues.	or 'IMPL' – implied strategy orders or 'ROUT' – routed orders. If multiple statuses are applicable, this field shall be populated with multiple flags separated by comma.
32	Quantity notation	Indicates whether the quantity reported is expressed in number of units, as a nominal value or as a monetary value, or crypto-asset units.	'UNIT' – Number of units 'NOML' – Nominal value 'MONE' – Monetary value '{CRYPT}' – Value in crypto-assets
33	Quantity currency	Currency in which the quantity is expressed. The currency shall refer to the crypto-asset units, even when the transaction is denominated in sub-components of that crypto-asset. Field only needs to be populated where the quantity is expressed as a nominal monetary value or crypto-asset units.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20}
34	Initial quantity	The number of units of the crypto-asset in the order. In case the order pertains a fraction of a crypto-asset, indicate the quantity in decimal notation of the unit. The nominal or monetary value of the crypto-asset.	{DECIMAL-18/17} in case the quantity is expressed as number of units. {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value.
35	Remaining quantity	The total quantity that remains in the order book after a partial execution or in the case of any other event affecting the order. On a partial fill order event, this shall be the total remaining volume after that partial execution. On an order entry this shall equal the initial quantity.	{DECIMAL-18/17} in case the quantity is expressed as a number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value.
36	Displayed quantity	The quantity that is visible (as opposed to hidden) in the order.	{DECIMAL-18/17} in case the quantity

			is expressed as a number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value.
37	Traded quantity	Where there is a partial or full execution, this field shall be populated with the executed quantity.	{DECIMAL-18/17} in case the quantity is expressed as a number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value.
38	Minimum acceptable quantity (MAQ)	The minimum acceptable quantity for an order to be filled which can consist of multiple partial executions and is normally only for non-persistent order types. This field shall be 'NOAP' where not relevant.	{DECIMAL-18/17} in case the quantity is expressed as a number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value. 'NOAP'
39	Minimum executable size (MES)	The minimum execution size of any individual potential execution. This field shall be left blank if not relevant.	{DECIMAL-18/17} in case the quantity is expressed as a number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value.
40	MES first execution only	Specifies whether the MES is relevant only for the first execution. This field can be left blank where field 39 is left blank.	'true' 'false'
41	Passive only indicator	Indicates if the order is submitted to the trading platform for crypto-asset with a characteristic/flag, such that the order shall not immediately execute against any contra visible orders.	'true' 'false'
42	Passive or aggressive indicator	On partial fill and fill order events, indicates whether the order was already resting on the order book and providing liquidity (passive) or the order initiated the trade and thus took liquidity (aggressive).	'PASV' – passive or 'AGRE' – aggressive.

		This field shall be left blank if not applicable.	
43	Self-execution prevention	Indicates if the order has been entered with self-execution prevention criteria, so that it would not execute with an order on the opposite side of the book entered by the same participant.	'true' 'false'
44	Strategy linked order identification	The alphanumerical code used to link all connected orders that are part of a strategy pursuant to Article 9(2).	{ALPHANUM-50}
45	Routing strategy	The applicable routing strategy as per the trading platform for crypto-assets' specification. This field shall be left blank if not applicable.	{ALPHANUM-50}
46	Transaction identification code	Alphanumerical code assigned by the trading platform for crypto-asset to the transaction pursuant to Article 14. The code shall be unique, consistent, and persistent per ISO10383 segment MIC and per trading day. The components of the transaction identification code shall not disclose the identity of the counterparties to the transaction for which the code is maintained. For orders transmitted to trading platforms for crypto-assets as referred to in Article 12 of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10), first subparagraph, point (b) to an entity providing crypto-asset services outside the Union, this information shall be recorded whenever those are retrievable.	{ALPHANUM-52}
Section K – Trading phases, indicative auction price and volume			
47	Trading phases	The name of each of the different trading phases during which an order is present in the order book including trading halts, circuit breakers and suspensions.	{ALPHANUM-50}
48	Indicative auction price	The price at which each auction is due to uncross in respect to the crypto-asset for which one or more orders have been placed.	{DECIMAL-18/5} in case the price is expressed as monetary or nominal value. Where price reported in monetary terms, it shall be provided in the major currency unit. DECIMAL-11/10} in case the price is expressed as a percentage or yield.

49	Indicative auction volume	The volume (number of units of the crypto-asset) that can be executed at the indicative auction price if the auction ended at that precise moment of time.	{DECIMAL-18/17} in case the quantity is expressed as number of units. {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value.

Section L – Country of residence of natural persons			
50	Identification of the country of residence	Shall be populated where a natural person is a resident of a country other than the one of its nationality as referred to in Article 3(4).	{COUNTRYCODE_2} 'NOAP'

Table 3

On-chain data

Field no	Field	Content to be recorded	Details to be provided to the competent authority
1	Transaction hash	Identifier enabling the unique identification of a specific transaction occurring on the network.	{ALPHANUM-140}
2	Wallet addresses	Code uniquely identifying the wallet, belonging to the buyer/seller, to which the crypto-asset is transferred.	{ALPHANUM-140}
3	Smart contract addresses	Code uniquely identifying the smart contract address.	{ALPHANUM-140}
4	Timestamp	Timestamp of the creation of the block.	{DATE_TIME_FORMAT}
5	Quantity/current total supply	Ratio between the transferred quantity and the current floating amount of the asset.	
6	Token ID	Digital Token Identifier or the alternative equivalent identifier referred to in Article 4.	{DTI}

			{ALPHANUM-20}
7	Network fee	Fees which are requested to cover the costs for the creation of a new block.	
8	Fee limit	Maximum amount of 'network fees' that an on-chain user is willing to pay for the executions of a specific transaction.	
9	<i>DataSize</i>	In connection to 'network fee' and 'fee limit' an on-chain transaction can contain 'attachments' in a specific <i>data</i> field that affect the network fees required to process the transaction.	
10	'To'	The unique identifier for buyer usually generated by the DLT protocol on the basis of the buyer wallet addresses.	{ALPHANUM-140}
11	'From'	The unique identifier for seller usually generated by the DLT protocol on the basis of the seller wallet addresses.	{ALPHANUM-140}
12	Currency	Currency code.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20}
13	Transaction record number	Identification number reported in Field 2 that is unique to the executing firm for each record to ensure that a link can be made between the on-chain report and the off-chain one.	{ALPHANUM-140}

APPENDIX 18: COMMISSION DELEGATED REGULATION (EU) 2025/417
of 28 November 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
manner in which crypto-asset service providers operating a trading platform
for crypto-assets are to present transparency data

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁶⁵, and in particular Article 76(16), third subparagraph, thereof,

Whereas:

- (1) A high degree of transparency is essential to ensure that investors are adequately informed of the true level of actual and potential transactions in crypto-assets traded on a trading platform operated by a crypto-asset service provider. This high degree of transparency should also ensure a level playing field between trading platforms so that the price discovery process in respect of an individual crypto-assets is not impaired by the fragmentation of liquidity, and investors are not thereby disadvantaged.
- (2) In order for investors to be adequately informed about access, costs, scope, functioning of trading platforms they use or intend to use, it is important for trading platforms to make available their operating rules in a transparent and non-discriminatory manner. Investors should have easy access to this information.
- (3) To enable investors to take informed decisions on orders or transactions on crypto-assets and to help maintain market integrity, trading platforms for crypto-assets should publicly disclose all orders and transactions as close to real-time as is technically possible on their platforms. In relation to that, it is also important to harmonise the information to be published so as to enable investors to use, compare and aggregate the information published from different trading platforms for crypto-assets.
- (4) To ensure fair conditions for all types of investors, both qualified investors and retail holders, regarding the access to order management facilities, trading platforms for crypto assets may offer reserve and stop orders directly through their trading platform when certain conditions are met.
- (5) Distributed ledger technology has given rise to innovative structures in crypto-asset trading platforms. Crypto-asset trading platforms are often differentiated as either off-chain Centralised Exchanges (CEXs) or on-chain Decentralised Exchanges (DEXs), such as those operated under an automated market maker model. CEXs are characterised by centralised control over trading operations and custodial practices. CEXs typically use mechanisms which are common in traditional finance, including central limit order books. DEXs, by contrast, operate without a central operator and facilitate trading directly on distributed ledgers through smart contracts, while allowing users to trade using their non-custodial wallets. In addition, the evolving landscape that includes hybrid models that combine features of both CEXs and DEXs necessitates

¹⁶⁵ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

a regulatory approach that is both precise and adaptable. In view of these developments, it is appropriate to clarify the transparency data requirements applicable to those trading systems that facilitate trading directly on distributed ledgers through smart contracts, in as much as they are not operated in a fully decentralised manner without intermediary and hence subject to Regulation (EU) 2023/1114.

- (6) Information which is required to be made available as close to real time as possible should be made available as instantaneously as technically feasible, assuming a reasonable level of efficiency of the systems of the crypto-asset service providers operating a trading platform for crypto-assets. The publication of the information close to the maximum time limit should occur only in exceptional cases where the systems available do not allow for a publication in a shorter period of time.
- (7) Specifying the level of disaggregation by which trading platforms can sell data is important to meet the diverse needs of market participants that contribute to efficient markets. To ensure that users of data can purchase or access only data that meets their specific needs, crypto-asset service providers operating a trading platform for crypto-assets should disaggregate data by, as a minimum, the type of crypto-asset (asset-referenced tokens, e-money tokens, crypto-assets other than asset-referenced tokens and e-money tokens), the currency in which the crypto-assets are traded, and the type of trading system. Those data should be provided to users on a crypto-asset basis where possible.
- (8) To ensure that pre-trade and post-trade data offered for purchase appropriately match the demand from market participants, crypto-asset service providers operating a trading platform should offer any combination of disaggregation criteria on a reasonable commercial basis.
- (9) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority.
- (10) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁶⁶,

HAS ADOPTED THIS REGULATION:

Article 1

General principles of presentation of the information on operating rules for trading platforms

1. Crypto-asset service providers operating a trading platform for crypto-assets shall publish the information on the operating rules for their trading platform free of charge and in a manner that is easily accessible, non-discriminatory, prominent, comprehensible, fair, clear, not misleading and facilitates understanding.
2. Crypto-asset service providers operating a trading platform for crypto-assets shall publish the operating rules for their trading platform in a single document on the crypto-asset service provider's website.

¹⁶⁶ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

*Article 2***Pre-trade transparency**

1. Crypto-asset service providers operating a trading platform for crypto-assets shall make public any bid and ask prices and the depth of trading interest at those prices, as referred to in Article 76(9) of Regulation (EU) 2023/1114, in accordance with the type of trading systems they operate as listed in Table 1 of Annex I to this Regulation.
2. When the objective market conditions referred to in point (a) occur, crypto-asset service providers operating a trading platform for crypto-assets shall make public the orders that meet all of the following conditions:
 - (a) the orders are contingent on the occurrence of objective market conditions which are pre-defined by the trading system's protocol;
 - (b) the orders cannot interact with other trading interests prior to the disclosure to the order book operated by the trading platform;
 - (c) once disclosed to the order book, the orders interact with other orders in accordance with the rules applicable to orders of that kind at the time of disclosure.
3. Crypto-asset service providers operating a trading platform for crypto-assets shall make public the details of each order for crypto-assets as set out in Tables 2 and 3 of Annex I.

*Article 3***Post-trade transparency**

1. Crypto-asset service providers operating a trading platform for crypto-assets shall make public the details of each transaction as referred to in Article 76(10) of Regulation (EU) 2023/1114 as set out in Tables 1 and 2 of Annex II.
2. Where a previously published trade report is cancelled, crypto-asset service providers operating a trading platform for crypto-assets shall make public a new trade report which contains all the details of the original trade report and the cancellation flag specified in Table 3 of Annex II.
3. Where a previously published trade report is amended, crypto-asset service providers operating a trading platform for crypto-assets shall make the following information public:
 - (a) a new trade report that contains all the details of the original trade report and the cancellation flag specified in Table 3 of Annex II;
 - (b) a new trade report that contains all the details of the original trade report with all necessary details corrected, and the amendment flag specified in Table 3 of Annex II.

*Article 4***Real time publication of transactions**

For transactions executed on their crypto-asset trading platforms, crypto-asset service providers operating a trading platform for crypto-assets shall make public the details of each transaction as set out in Tables 1, 2 and

3 of Annex II as close to real-time as is technically possible and in any case within thirty seconds after the execution of the transaction.

Article 5

Disaggregation of pre-trade and post-trade data

1. Crypto-asset service providers operating a trading platform for crypto-assets shall make the information published in accordance with Articles 2 and 3 available to the public by publishing pre-trade and post-trade transparency data separately.
2. Crypto-asset service providers operating a trading platform for crypto-assets shall upon request by any interested party make the data published in accordance with Articles 2 and 3 available to the public by presenting pre-trade and post-trade data disaggregated for each crypto-asset.
3. In addition to presenting the data in accordance with paragraph 2, crypto-asset service providers operating a trading platform may present the data referred to in paragraph 2 in bundles of crypto-assets.
4. Paragraphs 2 and 3 shall not apply where the information referred to in Articles 2 and 3 is made available free of charge.

Article 6

Entry into force

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

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

Done at Brussels, 28 November 2024.

ANNEX I

PRE-TRADE INFORMATION TO BE MADE PUBLIC

Table 1

Description of the type of trading systems and the related information to be made public in accordance with Article 1(1)

	Type of trading system	Description of the trading system	Information to be made public
1	Continuous auction order book trading system	A system that by means of an order book and a trading algorithm operates without human intervention and matches sell orders with buy orders on the basis of the best available price on a continuous basis.	The aggregated number of orders and the crypto-assets that those orders represent at each price level for at least the five best bid and offer price levels.
2	Quote-driven trading system	A system where transactions are concluded on the basis of firm quotes that are continuously made available to participants.	For each crypto-assets traded on the trading system, the best bid and offer by price of each participant, together with the volumes corresponding to those prices. The quotes made public shall be those that represent binding commitments to buy and sell the crypto-assets and that indicate the price and volume of crypto-assets in which the participants are prepared to buy or sell.
3	Periodic auction trading system	A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention.	The price at which the auction trading system would best satisfy its trading algorithm in respect of crypto-assets traded on the trading system and the volume that would potentially be executable at that price by participants in that system.
4	Automated market makers	A system relying on liquidity pools and mathematical pricing and valuation models for the automatic execution of individual transactions.	(i)the mathematical equation used to determine the price and the quantity of the crypto-assets in the liquidity pools; (ii)the level of liquidity in the liquidity pool at a given moment in

			time (on a continuous basis); and (iii) any further information and parameters that allow to determine the price at which a specific order would be executed.
5	Hybrid trading system	A system falling into two or more of the types of trading systems referred to in rows 1 to 4 of this table.	For hybrid trading systems that combine different trading systems at the same time, the requirements correspond to the pre-trade transparency requirements applicable to each type of trading system that forms the hybrid system. For hybrid trading systems that combine two or more trading systems subsequently, the requirements correspond to the pre-trade transparency requirements applicable to the respective trading system operated at a particular point in time.
6	Any other trading system	Any other type of trading system.	Adequate information as to the level of orders or quotes and of trading interests in respect of crypto-assets traded on the trading system; in particular, the five best bid and offer price levels and/or two-way quotes of each market maker in the crypto-assets, where the characteristics of the price discovery mechanism so permit.

Table 2

Symbol table for Table 3

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{CURRENCYCODE_3}	3 alphanumerical characters	3-letter currency code, as specified by ISO 4217 currency codes.
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.dddZ.

		— 'YYYY' is the year; — 'MM' is the month; — 'DD' is the day; — 'T' – means that the letter 'T' shall be used — 'hh' is the hour; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — negative numbers are prefixed with '-' (minus); values are rounded and not truncated.
{MIC}	4 alphanumerical characters	Market identifier as specified in ISO 10383.

Table 3

List of details for pre-trade transparency

#	Field identifier	Description and details to be published	Format to be populated as specified in Table 2
1	Submission date and time	Where the orders and quotes do not have to be published on an aggregated basis, the date and time when the order or quote was introduced for execution into the trading system.	{DATE_TIME_FORMAT}
2	Crypto-asset identification code	Unique and unambiguous identifier of the crypto-asset in accordance with Article 15 of the delegated regulation establishing technical	To be populated in accordance with Field 10 of table 2 of Section 2 of the Annex to the delegated

APPENDIX 18: COMMISSION DELEGATED REGULATION (EU) 2025/417

		standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.	regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.
3	Crypto-asset full name	Full name of the crypto-asset.	{ALPHANUM-350}
4	Buy-sell indicator	Indicator of whether the order is to buy or sell.	'BUYI' – buy 'SELL' – sell
5	Price	The price of orders and quotes as required for each trading system in Table 1 of Annex I and excluding, where applicable, commission and accrued interest. Where the price is expressed in monetary terms, it shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency. This field shall be left blank in case of market orders.	{DECIMAL-18/13} where the price is expressed in monetary value. {DECIMAL-11/10} where the price is expressed in percentage or yield. {DECIMAL-18/17} where the price is expressed in basis points.
6	Price currency	Currency in which the trading price for the crypto-asset related to the order is expressed (applicable where the price is expressed as monetary value). Where the crypto-asset is traded in electronic money/e-money token, the identifier referred to in Article 15 of the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114 shall be used. Where the price of the crypto-asset is expressed in monetary terms and in a currency pair, the currency pair in which the price for the crypto-asset related to the order is expressed shall be reported. The first currency code shall be that of the base currency and the second currency code shall be that of the quote currency. The quote currency determines the price of one unit of the base currency. The ISO currency	To be populated in accordance with Field 21 of Table 2 of Section 2 of the Annex to the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.

		code and the DTI short name as registered in accordance with the ISO 24165-2 data elements for registration of the DTI or alternative identifier referred to in Article 15 of the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114 shall be used to represent the fiat currency and the crypto asset respectively in the currency pair.	
7	Price notation	Indicates whether the price is expressed in monetary value, in percentage, in yield, or in basis points.	'MONE' – Monetary value 'PERC' – Percentage 'YIEL' – Yield 'BAPO' – Basis points
8	Quantity	For crypto-assets traded in units, the number of units of the crypto-asset. For crypto-assets not traded in units, the nominal or monetary value of the crypto-asset expressed in the same currency of the price in Field 5 'Price', as per Field 6 'Price currency'. Where the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset. Where Table 1 requires the aggregated publication of orders, the total number of units or the total nominal or monetary value of aggregated orders.	{DECIMAL-18/17} where the quantity is expressed as number of units. {DECIMAL-18/5} where the quantity is expressed as a monetary or nominal value.
9	Quantity currency	Currency in which the quantity is expressed. The currency shall refer to the crypto-asset units, even where the transaction is denominated in sub-components of that crypto-asset. Field only needs to be populated where the quantity is expressed as a nominal or monetary value or as crypto-asset units.	Identifier referred to in Field 26 of Table 2 of Section 2 of the Annex to the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.
10	Quantity notation	Indicates whether the quantity reported is expressed in number of	'UNIT' – Number of units

		units, as a nominal value, as a monetary value, or as crypto-asset units.	— 'NOML' – Nominal value — 'MONE' – Monetary value '{CRYP}' – Value in crypto-assets
11	Venue	Identification of the crypto-asset trading platform where the order was submitted. Where the crypto-asset trading platform uses segment MICs, the segment MIC shall be used. Where the crypto-asset trading platform does not use segment MICs, the operating MIC shall be used.	{MIC}
12	Number of orders and quotes	The number of aggregated orders or quotes from different clients (where aggregated information is required under Table 1 of Annex I).	{DECIMAL-18/0}
13	Trading system	Type of trading system where the order or quote is advertised	'CLOB' for continuous auction order book trading systems, 'QDTS' for quote driven trading systems, 'PATS' for periodic auction trading systems, 'HYBR' for hybrid trading systems, 'AMMS' for automated market makers, 'XXXX' for any other trading system
14	Publication date and time	Date and time when the information was published.	{DATE_TIME_FORMAT}

ANNEX II

POST-TRADE INFORMATION TO BE MADE PUBLIC

Table 1

Symbol table

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumeric characters	Free text field.
{CURRENCYCODE_3}	3 alphanumeric characters	3-letter currency code, as specified by ISO 4217 currency codes.
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.ddddddZ. — 'YYYY' is the year; — 'MM' is the month; — 'DD' is the day; — 'T' – means that the letter 'T' shall be used — 'hh' is the hour; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — negative numbers are prefixed with '-' (minus); Where applicable, values shall be rounded and not truncated.
{MIC}	4 alphanumeric characters	Market identifier as specified in ISO 10383.

Table 2

List of details for post-trade transparency

#	Field identifier	Content to be reported	Formats and standards to be used for reporting
1	Trading date and time	Date and time when the transaction was executed.	{DATE_TIME_FORMAT}
2	Crypto-asset identification code	Unique and unambiguous identifier of the crypto-asset in accordance with Article 15 of the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.	To be populated in accordance with Field 10 of table 2 of section 2 of the Annex to the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.
3	Crypto-asset full name	Full name of the crypto-asset.	{ALPHANUM-350}
4	Price	Traded price of the transaction excluding, where applicable, commission, other fees and accrued interest. Where the price is recorded in monetary terms, it shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency.	{DECIMAL-18/13} where the price is expressed as a monetary value.
5	Missing Price	Where the price is not available but pending, the value shall be 'PNDG'. Where the price is not applicable, the value shall be 'NOAP'.	'PNDG' in case the price is not available. 'NOAP' in case the price is not applicable.
6	Price notation	Indicates whether the price is expressed in monetary value, in percentage, in yield, or in basis points.	'MONE' – Monetary value 'PERC' – Percentage 'YIEL' – Yield 'BAPO' – Basis points

7	Price currency	Currency in which the trading price for the crypto-asset related to the order is expressed (applicable where the price is expressed as monetary value). Where the crypto-asset is traded in electronic money/e-money token, the identifier referred to in Article 15 of the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114 shall be used. Where the price of the crypto-asset is expressed in monetary terms and in a currency pair, the currency pair in which the price for the crypto-asset related to the order is expressed shall be reported. The first currency code shall be that of the base currency and the second currency code shall be that of the quote currency. The quote currency determines the price of one unit of the base currency. The ISO currency code and the DTI short name as registered in accordance with ISO 24165-2 data elements for registration of the DTI or alternative identifier referred to in Article 15 of the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114 shall be used to represent the fiat currency and the crypto asset respectively in the currency pair.	To be populated in accordance with Field 21 of Table 2 of Section 2 of the Annex to the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.
8	Quantity	Field to be populated with the executed quantity.	{DECIMAL-18/17} where the quantity is expressed as number of units. {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value. {DECIMAL-18/13} where the price is expressed in sub-components of that

			crypto-asset.
9	Quantity currency	Currency in which the quantity is expressed. The currency shall refer to the crypto-asset units, even where the transaction is denominated in sub-components of that crypto-asset. Field only needs to be populated where the quantity is expressed as a nominal monetary value or crypto-asset units.	Identifier referred to in Field 26 of Table 2 of Section 2 of the Annex to the delegated regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114.
10	Quantity notation	Indicates whether the quantity reported is expressed in number of units, as a nominal value, as a monetary value, or as crypto-asset units.	— 'UNIT' – Number of units — 'NOML' – Nominal value — 'MONE' – Monetary value '{CRYP}' – Value in crypto-assets
11	Venue of execution	Identification of the crypto-asset trading platform where the order was submitted. Where the crypto-asset trading platform uses segment MICs, the segment MIC shall be used. Where the crypto-asset trading platform does not use segment MICs, the operating MIC shall be used.	{MIC} – crypto-asset trading platform
12	Publication date and time	Date and time when the transaction was published by a crypto asset trading platform.	{DATE_TIME_FORMAT}
13	Venue of Publication	Code used to identify the crypto-asset trading platform publishing the transaction.	{MIC} – crypto-asset trading platform
14	Transaction identification code	Alphanumerical code assigned by crypto-asset trading platforms in accordance with Article 14 of Commission Delegated Regulation	{ALPHANUM-52}

		(EU) 2025/416 ¹⁶⁷ used in any subsequent reference to the specific trade.	

Table 3

List of flags for post-trade transparency

Flag	Name	Description
'CANC'	Cancellation flag	Where a previously published transaction is cancelled.
'AMND'	Amendment flag	Where a previously published transaction is amended.

¹⁶⁷ Commission Delegated Regulation (EU) 2025/416 of 29 November 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content and format of order book records for crypto-asset service providers operating a trading platform for crypto-assets (OJ L, 2025/416, 14.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/416/oj).

APPENDIX 19: COMMISSION DELEGATED REGULATION (EU) 2025/418**of 16 December 2024****supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the minimum content of the governance arrangements on the remuneration policy of issuers of significant asset-referenced or e-money tokens**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁶⁸, and in particular Article 45(7), fourth subparagraph, thereof,

Whereas:

- (1) Requirements set out in Articles 45(1) of Regulation (EU) 2023/1114 also apply to electronic money institutions issuing significant e-money tokens, in accordance with Article 58(1), point (a), of that Regulation, where required by the competent authority under Article 35(4) of that Regulation, to issuers of asset-reference tokens that are not significant, and, where required by the competent authority under Article 58(2) of that Regulation, to electronic money institutions issuing non-significant e-money tokens.
- (2) Credit institutions, investment firms, undertakings for collective investment in transferable securities (UCITS management companies) and alternative investment funds managers (AIFM) that are issuers of significant ARTs are to comply with the relevant more specific or stricter requirements set for those issuers in Directives 2013/36/EU¹⁶⁹, (EU) 2019/2034¹⁷⁰, 2009/65/EC¹⁷¹ and 2011/61/EU¹⁷² of the European Parliament and of the Council, in addition to the requirements under Regulation (EU) 2023/1114 and this Regulation on governance arrangements for remuneration policies. To achieve the objective of sound and effective risk management of issuers of significant asset-referenced or e-money tokens, remuneration policies should provide incentives for staff for long-term oriented risk-taking behaviour in line with the risk

¹⁶⁸ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹⁶⁹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>).

¹⁷⁰ Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64, ELI: <http://data.europa.eu/eli/dir/2019/2034/oj>).

¹⁷¹ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32, ELI: <http://data.europa.eu/eli/dir/2009/65/oj>).

¹⁷² Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/61/oj>).

appetite of issuers of significant asset-referenced or e-money tokens and contribute to the protection of the holders of asset-referenced or e-money tokens.

- (3) Considering the similarities of the business model of issuers of significant asset-referenced or e-money tokens with the business model of investment firms that issue financial instruments, and in order to ensure a level playing field across the Union, it is necessary to set out a framework for governance arrangements on remuneration policies that includes the same elements as the rules on remuneration policy applicable to investment firms. However, this framework should be tailored to issuers of significant asset-referenced and e-money tokens, whose business is different from the activity of issuing financial instruments by investment firms or the performance of related investment services. This framework should aim at ensuring the same objectives as the remuneration framework for investment firms under Directive (EU) 2019/2034.
- (4) To ensure that remuneration policies promote sound and effective risk management of the issuers of significant asset-referenced tokens or of the electronic money institutions issuing significant e-money tokens, do not provide incentives for excessive risk taking and are aligned with the long-term interests of those issuers across the European Union, it is necessary to specify the main aspects of the remuneration policies to be applied by such issuers by taking into consideration and adapting the ones already existing under other sectoral legislations for entities acting on the financial market.
- (5) To ensure that the remuneration framework provides no incentives to lower risk standards, specific requirements for the variable remuneration of staff in control functions should be set to ensure that they are remunerated mainly based on control objectives while the remuneration policies for all staff, including marketing or sales staff should provide no incentives for a preferential treatment of clients or counterparts.
- (6) In addition to the determination of an appropriate maximum ratio between variable and fixed remuneration, it is appropriate for issuers of significant asset-referenced tokens or electronic money tokens, to impose additional requirements to align the variable remuneration of staff that has a material impact on the risk profile of the issuers of asset-referenced tokens or e-money tokens within the scope of this Regulation or on the risk profile of the tokens they issue, so as to ensure that the variable remuneration is linked to the risk adjusted performance of the issuer, including by requiring the application of deferral arrangements, malus and claw back.
- (7) To ensure a proper risk alignment of the variable remuneration awarded in instruments, the instruments awarded should consist of shares, share-linked or equivalent instruments or the significant tokens issued.
- (8) Environmental, social and governance (ESG) factors, including the adverse impact on the climate stemming from energy use and carbon footprint associated with the underlying information technology infrastructures and consensus mechanisms algorithms, used for the validation of transactions in blockchain systems, are relevant for issuers of asset-referenced or e-money tokens within the scope of this Regulation. ESG factors can affect the risk profile of such issuers, its business model and the acceptance of their tokens. While climate and environmental factors are particularly relevant to the activities and services of such issuers, other types of ESG factors such as tax transparency, human rights, employment conditions and adequate management of risks related to money laundering and other financial crimes are also relevant factors. It is therefore necessary that issuers of asset-referenced tokens or e-money tokens within the scope of this Regulation ensure that their remuneration policies are consistent with ESG risk-related objectives and take into account ESG risks and their possible adverse impacts. In particular, the variable remuneration should be aligned to the ESG risk factors relevant for climate and other environmental impacts caused by the consensus and validation mechanisms used.

- (9) This Regulation is based on the draft regulatory technical standards developed by the European Supervisory Authority (European Banking Authority, EBA) in consultation with the European Securities Markets Authority and submitted by the EBA to the Commission.
- (10) EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁷³,

HAS ADOPTED THIS REGULATION:

Article 1

Scope of application

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

- (a) issuers of significant asset-reference tokens;
- (b) electronic money institutions issuing significant e-money tokens;
- (c) issuers of asset-reference tokens that are not significant, where required by the competent authority under Article 35(4) of Regulation (EU) 2023/1114;
- (d) electronic money institutions issuing e-money tokens that are not significant, where required by the competent authority under Article 58(2) of Regulation (EU) 2023/1114.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'Staff' means all employees of an issuer of asset-referenced tokens or e-money tokens, and all members of such issuer's management bodies;
- (2) 'Senior management' means those natural persons who exercise executive functions within an issuer of asset-referenced tokens or e-money tokens and who are responsible and accountable to the management body, but are not members of that body, for the day-to-day management of the issuer under the direction of its management body;
- (3) 'Identified staff' means staff that has a material impact on the risk profile of the issuer of asset-referenced tokens or e-money tokens, or on the risk profile of significant asset-referenced or electronic-money tokens they issue;
- (4) 'Managerial responsibility' means a situation, in which a staff member either:

¹⁷³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

- (a) leads a business unit, material business unit or a control function and is directly accountable to the management body as a whole or to a member of the management body or to the senior management; or
- (b) carries out a function or a task laid down in Article 5(2), point (c);
- (5) 'Risk appetite' means the aggregate level and types of risk that an issuer of asset-referenced tokens or e-money token is willing to assume within its risk capacity, in line with its business model, to achieve its strategic objectives;
- (6) 'Business unit' means a business unit as defined in Article 142(1), point (3), of Regulation (EU) No 575/2013;
- (7) 'Material business unit' means a business unit as defined in Article 142(1), point (3), of Regulation (EU) No 575/2013 that is assessed by the issuer of asset-referenced tokens or e-money tokens as having a material impact on the issuer's business model or as representing a material source of revenue, profit or franchise value for an issuer;
- (8) 'Control function' means a function that is independent from the business units it controls and that is responsible for internal control procedures and includes the risk management, compliance and the internal audit functions;
- (9) 'Remuneration' means all forms of fixed and variable remuneration, including the following:
 - (a) monetary or non-monetary payments and benefits, awarded directly to staff by or on behalf of issuers of asset-referenced tokens or e-money tokens in exchange for professional services provided by staff;
 - (b) carried interest payments within the meaning of Article 4(1), point (d), of Directive 2011/61/EU;
 - (c) other payments made via methods and vehicles which, if they were not considered as remuneration, would lead to a circumvention of the remuneration requirements set out in Regulation (EU) 2023/1114 and in this Regulation.

Article 3

Governance arrangements for remuneration policies

1. The management body of issuers of asset referenced tokens and e-money tokens shall carry out all the following tasks:
 - (a) approve and retain ultimate responsibility for the issuer's remuneration policy;
 - (b) approve any changes to the remuneration policy;
 - (c) seek advice from the remuneration committee where established by the issuer, on the issuer's remuneration policy.
2. Issuers of asset referenced tokens or e-money tokens shall ensure the following:
 - (a) the implementation of their remuneration policies is subject to a review for compliance with policies and procedures by control functions at least annually;
 - (b) the compliance function and the risk management function, where established, or staff entrusted with the performance of compliance procedures or risk management procedures, the internal audit function, where

established, and human resources function provide effective input on the design of the remuneration policies;

- (c) potential conflicts of interest caused by the pay-out in instruments as part of the variable or fixed remuneration are identified and appropriately mitigated.
3. The review referred to in point (a) of paragraph (2) may be outsourced to an external party.

Article 4

Remuneration policies for all staff

1. Issuers of asset referenced tokens or e-money tokens shall ensure that their remuneration policies for all staff meet the following criteria:
- (a) they are consistent with the rights and interests of holders of tokens with a view to ensuring that holders are treated fairly and that their interests are not impaired by the remuneration practices adopted by the issuer;
 - (b) they are gender-neutral and based on the principle of equal pay for male and female staff for equal work or work of equal value within the meaning of Article 3(1), point (65), of Directive 2013/36/EU;
 - (c) they are consistent with the objectives of the business and risk strategy, including environmental, social and governance (ESG) risk-related objectives, corporate culture and values, risk culture and risk appetite;
 - (d) they ensure that the staff engaged in control functions are remunerated in accordance with the achievement of the objectives linked to their functions and independently of the performance of the business areas they control;
 - (e) they are consistent with the management of ESG risks and provide for incentives for the control and limitation of ESG impacts caused by the issuer's business activities;
 - (f) they do not create a conflict of interest or incentive that may lead staff members to favour their own interests or the issuer's interests to the potential detriment of any holder of significant tokens they issue;
 - (g) they do not encourage risk-taking that exceeds the level of risk appetite of the issuer;
 - (h) they are available to the staff concerned at all times;
 - (i) they are transparent to all staff regarding the fixed remuneration, processes and criteria for setting the variable remuneration and the award criteria used;
 - (j) they are clear, well documented, transparent, proportionate to the size, internal organisation and nature, as well as to the scope and complexity of the issuer's business activities.

Article 5

Identification of staff members

1. Issuers of asset referenced tokens or e-money tokens, shall identify all staff members that have a material impact on the risk profile of those issuers or on the risk profile of the tokens they issue, by applying at least the criteria set out in paragraphs 2 and 3.

2. A person shall be identified as a staff member referred to in paragraph 1 if it meets one or more of the following criteria:

- (a) they are members of the management body or senior management;
- (b) they have managerial responsibility over the issuer's control functions or material business units;
- (c) they have managerial responsibility for:
 - (i) management of at least one of the following risk categories: liquidity risk, operational risk, including legal risk and information and communication technology risk;
 - (ii) information and communication technology used for the processing of the tokens;
 - (iii) the prevention of money laundering and terrorist financing;
 - (iv) the management of reserve assets;
 - (v) the token issuance function;
 - (vi) managing outsourcing arrangements with third-party service providers supporting critical or important functions;
 - (vii) finance, including taxation and budgeting;
 - (viii) legal affairs;
 - (ix) the soundness of accounting policies and procedures;
 - (x) human resources;
 - (xi) the establishment or internal approval of white papers.

3. A person shall be considered a staff member referred to in paragraph 1 where its professional activities have a comparable impact on the issuers' risk profile or on the risk profile of the tokens they issue to that of the staff members specified in points (a) to (c) of paragraph 2.

Article 6

Remuneration policies for identified staff members

1. Issuers of asset referenced tokens or e-money tokens shall ensure that the remuneration policies for staff identified in accordance with Article 5 of this Regulation, taking into account national contract and labour law, make a clear distinction between the following two components of the total remuneration:

- (a) basic fixed remuneration, which shall primarily reflect relevant professional experience and organisational responsibility as set out in a staff member's job description as part of the terms of employment;
- (b) variable remuneration which shall reflect a sustainable and risk adjusted performance as well as performance in excess of that required to fulfil the staff member's job description as part of the terms of employment.

2. Issuers of asset referenced tokens or e-money tokens shall ensure that their remuneration policies for staff identified in accordance with Article 5 of this Regulation comply with the following requirements:

- (a) variable remuneration is linked to the assessment of the performance of the issuer, the business unit and the individual staff member concerned, and, when assessing performance, financial and non-financial criteria, including the management of ESG risks and control over adverse ESG impacts, are taken into account;
- (b) existence of an effective risk adjustment mechanism to integrate all relevant types of current and future risks;
- (c) absence of guaranteed variable remuneration other than for new staff only for the first year of employment;
- (d) remuneration packages relating to compensation or buy out from contracts in previous employment are aligned with the long-term interests of the issuer;
- (e) payments relating to the early termination of an employment contract reflect performance achieved over time by the individual staff member and do not reward failure or misconduct;
- (f) fixed and variable components of total remuneration are appropriately balanced, and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of fully flexible policies on variable remuneration components, including the possibility of reducing the variable remuneration to zero;
- (g) appropriate maximum ratios are set between the variable and the fixed component of the total remuneration, taking into account the business activities of the issuer and associated risks, as well as the impact that different categories of staff referred to in Article 5 have on the risk profile of the issuers or on the risk profile of the tokens they issue;
- (h) variable remuneration for staff in control function is predominantly linked to control objectives and that the ratio between the variable and the fixed components of total remuneration for staff in control functions is set significantly lower compared to the ratio applicable to the business units they control;
- (i) at least 50 % of the variable remuneration consists of any of the following instruments:
 - (i) shares or equivalent ownership interests, subject to the legal structure of the issuer concerned;
 - (ii) share-linked instruments, subject to the legal structure of the issuer concerned;
 - (iii) Additional Tier 1 instruments which can be fully converted to Common Equity Tier 1 instruments or written down and which adequately reflect the credit quality of the issuer as a going concern;
 - (iv) asset-referenced tokens or e-money tokens issued by the issuer, unless the issuer is a credit institution, investment firm, UCITS management company or Alternative Investment Funds Managers (AIFM) and is required to pay out a part of the variable remuneration of staff in instruments in accordance with Article 94(1), point (l), of Directive 2013/36/EU, Article 32(1), point (j), of Directive (EU) 2019/2034 or Article 14b(1)(m) of Directive 2009/65/EC or paragraph 1(m) of Annex II to Directive 2011/61/EU;
 - (v) other instruments that may be used for the pay-out of variable remuneration by the issuer, if the issuer is authorised in accordance with a Union legal act that requires the issuer to pay out parts of the variable remuneration in such other instruments;

- (j) specific criteria are set for the application of malus and clawback on variable remuneration, which shall in particular cover situations where the staff member concerned:
 - (i) participated in or was responsible for conduct which resulted in significant losses for the issuer, as defined in the issuer's remuneration policy;
 - (ii) failed to meet appropriate standards of fitness and propriety;
 - (k) at least 40 % of the variable remuneration awarded to identified staff is deferred for a period of at least 3 to 5 years, depending on the business cycle of the issuer, the nature of its business, its risks and the activities of the individual staff member concerned, except in the case of variable remuneration of a particularly high amount where the proportion of the variable remuneration deferred is at least 60 %;
 - (l) the deferred portion of the variable remuneration referred to in point (k) does not vest sooner than 12 months after the start of the deferral period and does vest no faster than on a pro-rata basis;
 - (m) no interest or dividend on instruments which have been awarded as variable remuneration under deferral arrangements is paid to identified staff for periods before the instrument has vested;
 - (n) the variable remuneration is awarded and vests only if it is sustainable according to the financial situation of the issuer as a whole and justified on the basis of the performance of the issuer, of the business unit and of the staff member concerned;
 - (o) no obligation is created to pay variable remuneration during the period when the issuer failed to meet prudential requirements set out in accordance with Article 67 of Regulation (EU) 2023/1114.
3. The requirement in paragraph 2, point (i) shall apply to the deferred and the non-deferred part of variable remuneration. Where the issuer of asset referenced tokens or e-money tokens pays out a higher portion than 50 % of the deferred part of variable remuneration in instruments referred to in paragraph 2, point (i) it may pay out a lower portion than 50 % of the non-deferred part of variable remuneration in instruments referred to in paragraph 2, point (i), as long as in total the requirement for the pay out of variable remuneration in instruments of at least 50 % is met.
4. Paragraph 2, points (i) and (k), shall not apply to an individual staff member whose annual variable remuneration does not exceed EUR 50 000 and does not represent more than one fourth of that individual staff member's total annual remuneration.

Article 7

Entry into force

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

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

Done at Brussels, 16 December 2024.

APPENDIX 20: COMMISSION DELEGATED REGULATION (EU) 2025/419
of 16 December 2024
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
procedure and timeframe for an issuer of asset-referenced tokens or of e-
money tokens to adjust the amount of its own funds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and Directive (EU) 2019/1937¹⁷⁴, and in particular Article 45(7), fourth subparagraph, thereof,

Whereas:

- (1) The requirement set out in Articles 45(5) of Regulation (EU) 2023/1114 also applies to electronic money institutions issuing significant e-money tokens, in accordance with Article 58(1), point (b), of that Regulation, where required by the competent authority under Article 35(4) of that Regulation, to issuers of asset-reference tokens that are not significant, and, where required by the competent authority under Article 58(2) of that Regulation, to electronic money institutions issuing e-money tokens that are not significant.
- (2) Issuers of significant asset-referenced tokens or significant e-money tokens, as well as issuers of asset-referenced tokens or e-money tokens that are not significant, but are subject to Article 45(5) of Regulation (EU) 2023/1114 in accordance with Article 35(4) or Article 58(2), respectively, of that Regulation, should elaborate a plan to adjust the level of own funds to the required level within the timeframe required. Those issuers should discuss and agree the feasibility of such plan with the relevant competent authorities. Implementation of such plan should be closely monitored by competent authorities and, for that purpose, the relevant issuers should notify to the competent authority steps taken, including a final notification of the adjustment completion.
- (3) Competent authorities of the home Member State should determine the timeframe for the issuers to adjust their own funds. Any such timeframe should have a maximum deadline and be as short as possible and based on a case-by-case assessment and determined after a dialogue with that issuer, having regard to the potential impact on that issuer, its specificities and risks to the financial stability of the wider financial system.
- (4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (5) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and

¹⁷⁴ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁷⁵,

HAS ADOPTED THIS REGULATION:

Article 1

Scope of application

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

- (a) issuers of significant asset-reference tokens;
- (b) electronic money institutions issuing significant e-money tokens;
- (c) issuers of asset-reference tokens that are not significant, where required by the competent authority under Article 35(4) of Regulation (EU) 2023/1114;
- (d) electronic money institutions issuing e-money tokens that are not significant, where required by the competent authority under Article 58(2) of Regulation (EU) 2023/1114.

Article 2

Timeframe

1. The competent authority of the home Member State shall notify the timeframe within which an issuer of asset-referenced tokens or e-money tokens referred to in Article 1 shall adjust its own funds, within 25 working days from the notification of a decision to classify an asset-referenced token or e-money token as significant, or from the notification to the issuer to comply with the requirement of Article 45(5) of Regulation (EU) 2023/1114. That timeframe shall be set after a dialogue with the relevant issuer.
2. The competent authority shall grant to the relevant issuer no more than 6 months after the notification referred to in paragraph 1 to adjust its own funds, having regard to the potential impact on the relevant issuer, its specificities and risks to the financial stability of the wider financial system.
3. Within 25 working days from receipt of the notification on the timeframe referred to in paragraph 1, the relevant issuer shall submit to the competent authority a detailed plan on how its own funds are to be adjusted to meet the requirement of Article 45(5) of Regulation (EU) 2023/1114.

The plan shall include time-bound steps and procedures to carry out the own funds' adjustment within the set timeframe.

The plan shall ensure that the own funds items and instruments that will be used to comply with the increased and adjusted requirement fulfil all the conditions set out in Article 35(2) of Regulation (EU) 2023/1114.

4. The relevant issuer shall inform the competent authority immediately and in writing in case any step or procedure of the plan cannot be achieved in a timely manner. In such a case, the relevant issuer shall submit to

¹⁷⁵ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

the competent authority an update of the plan, including alternative steps or procedures that allow the issuer to adjust its own funds in the set timeframe.

5. The competent authority shall closely monitor the implementation of the plan.
6. The relevant issuer shall inform the competent authority of the completion of the steps provided in the plan, including a final notification to the competent authority when the required own funds adjustment has been completed, within 20 working days from the completion.

Article 3

Entry into force

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

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

Done at Brussels, 16 December 2024.

APPENDIX 21: COMMISSION DELEGATED REGULATION (EU) 2025/421

of 16 December 2024

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the data necessary for the classification of crypto-asset white papers and the practical arrangements to ensure that such data is machine-readable

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁷⁶, and in particular Article 109(8), third subparagraph, thereof,

Whereas:

- (1) In accordance with Regulation (EU) 2023/1114, the register of crypto-asset white papers, of issuers of asset-referenced tokens and e-money tokens, and of crypto-asset service providers ('register') established in accordance with Article 109 of Regulation (EU) 2023/1114 is to contain information allowing the register to facilitate the accessibility of white papers classified on the basis of the types of crypto-assets set out in that Regulation. The data necessary for the classification of crypto-asset white papers should support national competent authorities in their task of verifying that the requirements of Regulation (EU) 2023/1114 are applied consistently.
- (2) To ensure the most efficient operation of the register, competent authorities should submit the data to the European Securities and Markets Authority (ESMA) in the same format as the white paper. Furthermore, to minimise costs, ESMA and competent authorities should be able to derive the relevant data for the classification of white papers in the register from the information disclosed in crypto-asset white papers. To minimise the changes in the data required as of the date of application of Article 110 of Regulation (EU) 2023/1114, the data used to classify crypto-asset white papers should comprise the data that competent authorities will provide to the European Single Access Point (ESAP) in accordance with Article 5(1), point (e), of Regulation (EU) 2023/2859 of the European Parliament and of the Council¹⁷⁷.
- (3) To ensure efficient processing of data, legal persons drawing up the crypto-asset white paper and identified therein by an ISO 17442 legal entity identifier (LEI) should ensure that such LEI is valid and duly renewed. Where the person drawing up the white paper does not have a LEI, the register should contain an identifier that ensures similar characteristics for the purposes of the register.
- (4) Crypto-assets that are not financial instruments cannot at present be described by using the ISO Classification of Financial Instruments (CFI) code. A standard universal method of classification is being

¹⁷⁶ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹⁷⁷ Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (OJ L, 2023/2859, 20.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2859/oj>).

developed. However, this method of classification will not be finalised before the application of this Regulation. Hence, to identify the crypto-asset white papers consistently in the register referred to in Article 109(1) of Regulation (EU) 2023/1114, an international standard identifier for digital tokens, the Functionally Fungible Group Digital Token Identifier (FFG DTI) should be used. Furthermore, to identify the crypto-assets and to allow users to retrieve the main characteristics of the crypto-assets, including their technology-specific features, and to group tokens issued on several blockchains that are pertaining to the same crypto-asset white paper, the ISO 24165 Digital Token Identifiers (DTI) should be used. The FFG DTI and the DTI are appropriate for the purposes of the register since they respect the principles of uniqueness, neutrality, reliability, open source, scalability, accessibility on a cost-recovery basis and they are offered under an appropriate governance framework.

- (5) Since this Regulation concerns the classification of crypto asset white papers and is therefore linked to Commission Implementing Regulation (EU) 2024/2984¹⁷⁸ which concerns standard forms, formats and templates for the white paper, it is necessary to align the dates of application of the two Regulations. The deferred application is also necessary to enable persons drawing up crypto-asset white papers and competent authorities to adapt to the requirements laid down in this Regulation.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by ESMA.
- (7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁷⁹,

HAS ADOPTED THIS REGULATION:

Article 1

Data for the classification of crypto-asset white papers

1. The data necessary for the classification of crypto-asset white papers is set out the Annex.
2. The data set out in the Annex shall be provided in a common format in accordance with the ISO 20022 standard.
3. By way of derogation from paragraph 2 of this Article, where the data set out in the Annex is included in the crypto-asset white paper referred to in Article 6, Article 19 or Article 51 of Regulation (EU) 2023/1114, the data set out in the Annex to this Regulation may be provided in the same machine-readable format in which the crypto-asset white paper was prepared in accordance with Implementing Regulation (EU) 2024/2984.

Article 2

Legal Entity Identifiers

¹⁷⁸ Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regards to forms, formats and templates for the crypto-asset white papers (OJ L, 2024/2984, 3.12.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2984/oj).

¹⁷⁹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

When using the ISO 17442 Legal Entity Identifier, persons drawing up a crypto-asset white paper referred to in Articles 6, Article 19 or Article 51 of Regulation (EU) 2023/1114 shall ensure that the identifier is:

- (a) valid and issued in accordance with the terms of any of the Local Operating Units of the Global Legal Entity Identifier System;
- (b) included in the Global Legal Entity Identifier database maintained by the Central Operating Unit appointed by the Regulatory Oversight Committee.

Article 3

Identification of the crypto-asset and the related white paper

1. When the ISO 24165 Digital Token Identifier is provided, the crypto-asset white paper shall be identified with a valid identifier of type 3 pertaining to the group of crypto-assets to which the white paper relates.
2. When the ISO 24165 Digital Token Identifier is provided, the crypto-asset or crypto-assets to which the crypto-asset white paper relates shall be individually identified with a valid identifier assigned to each of the crypto-assets to which the white paper relates.
3. When the ISO 24165 Digital Token Identifier is not available, the crypto-asset white paper shall identify the crypto-assets to which the crypto-asset white paper relates, by using a digital token identifier approved by ESMA at Union level, which meets all of the following characteristics:
 - (a) unique;
 - (b) neutral;
 - (c) reliable;
 - (d) open source;
 - (e) scalable;
 - (f) accessible;
 - (g) available at a reasonable cost basis; and
 - (h) is subject to an appropriate governance framework.

Article 4

Entry into force and application

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

This Regulation shall apply from 23 December 2025.

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

Done at Brussels, 16 December 2024.

ANNEX**Data necessary for the classification of crypto-asset white papers in the register referred to in Article 109 of Regulation (EU) 2023/1114****Legend**

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.dddddZ. — 'YYYY' is the year, — 'MM' is the month, — 'DD' is the day, — 'T' – means that the letter 'T' shall be used, — 'hh' is the hour, — 'mm' is the minute, — 'ss.ddddd' is the second and its fraction of a second, — Z is UTC time. Dates and times shall be recorded in UTC.
{DATEFORMAT}	ISO 8601 date format	Dates shall be formatted in the following format: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fractional digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop), — negative numbers are prefixed with '-' (minus); Values are rounded and not truncated.

{DTI}	9 alphanumerical characters	Digital Token Identifier as defined in ISO 24165 standard
{FFG DTI}	9 alphanumerical characters	Code to identify a group of equivalent Digital Token Identifiers as defined in ISO 24165 standard type 3
{INTEGER-n}	Integer number of up to n digits in total	Numerical field for both positive and negative integer values.
{LEI}	20 alphanumerical characters	Legal entity identifier as defined in ISO 17442
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Number	Field	Content	Form and standards
1	Type of crypto-asset white paper	The type of crypto-asset white paper notified. Where the crypto-asset white paper concerns asset-referenced tokens, the code 'ARTW' shall be used. Where the crypto-asset white paper concerns e-money tokens, the code 'EMTW' shall be used. Where the crypto-asset white paper concerns crypto-assets other than asset-referenced tokens and e-money tokens the code 'OTHR' shall be used.	Choice from list of predefined values: 'ARTW' 'EMTW' 'OTHR'
2	Name of the issuer	Name of the issuer	Free alphanumerical text
3	Legal form of the issuer	Legal form	ISO standard 20275 'Financial Services – Entity Legal Forms (ELF)'
4	Legal entity identifier of the issuer, where available	Legal entity identifier of the issuer, where available	{LEI}
5	Other identifier of the issuer required pursuant to applicable national law, where available	Other identifier of the issuer required pursuant to applicable national law, where available	Free alphanumerical text

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6	Legal entity identifier of the entity that drew up the crypto-asset white paper, where available	Legal entity identifier of the entity that drew up the crypto-asset white paper, where available	{LEI}
7	Other identifier of the entity that drew up the crypto-asset white paper required pursuant to applicable national law, where available	Other identifier of the entity that drew up the crypto-asset white paper required pursuant to applicable national law	Free alphanumeric text
8	Identifier of operator of the trading platform	Segment market identifier code (MIC) for the trading platform operated by the crypto-asset service provider (CASP), where available, otherwise operating MIC	{MIC}
9	Commercial name or trading name of the issuer, where available	Commercial name or trading name of the issuer, where available	Free alphanumeric text
10	Physical address of the issuer	Physical address of the issuer	Free alphanumeric text
11	Telephone number of the issuer, where available	Telephone number of the issuer, where available	Free alphanumeric text
12	Email of the issuer, where available	Email of the issuer, where available	Free alphanumeric text
13	Website of the issuer	Website of the issuer	Free alphanumeric text
14	Home Member State	Home Member State as defined in Article 3, point (33), of Regulation (EU) 2023/1114	Closed list of EU Member States
15	Host Member States	Host Member State as defined in Article 3, point (34), of Regulation (EU) 2023/1114.	Closed list of EU Member States
16	Starting date of offer to the public or admission to trading	Starting date or, if not available at the time of the notification by the competent authority, the intended starting date of offer to the public or admission to trading	YYYY-MM-DD
17	Any other services provided by the issuer	Any other services provided by the issuer not covered by Regulation (EU) 2023/1114, with a reference to the applicable Union or national legal acts regulating that service, where applicable	Free alphanumeric text
18	The date of authorisation, where applicable	The date of authorisation by the competent authority, where applicable	YYYY-MM-DD
19	The date of withdrawal of authorisation, where applicable	The date of withdrawal of authorisation by the competent authority, where applicable	YYYY-MM-DD
20	Publication date	Effective or intended publication date of the crypto-asset white paper or of the modified crypto-asset white paper, as applicable	YYYY-MM-DD

21	Date and time of notification	Date and time of the latest notification of the white paper to the competent authority	YYYY-MM-DD Thh:mm:ss.ddddddZ.
22	Language or languages of the crypto-asset white paper	Language or languages in which the crypto-asset white paper is drafted. Where multiple languages have been used, this field shall be reported as many times as necessary	Closed list of EU languages
23	Record identifier	Unique identifier of the uploaded record, assigned by the sending competent authority	{ALPHANUM-500}
24	Data file reference	Reference code needed to link the data file with corresponding metadata file	{ALPHANUM-500}
25	The type of submission	Type of submission	NEWT = New MODI = Modify EROR = Error CORR = Correction
26	Version	Version of the dataset (data and metadata)	{INTEGER-50}
27	Digital Token Identifier used to uniquely identify the crypto-asset or each of the several crypto assets to which the white paper relates, where available	Code used to uniquely identify the crypto-asset or each of the several crypto assets to which the crypto-asset white paper relates, where available	ISO 24165 Digital Token Identifier {DTI}
28	Functionally Fungible Group Digital Token Identifier, where available	Code used to uniquely identify the functionally fungible group to which the digital asset belongs (i.e. common to each of the several assets to which the crypto-asset white paper relates), i.e. code used to identify the white paper ISO 24165 DTI of type = 3 (i.e. functionally fungible group), where available	ISO 24165 [FFG DTI]
29	Personal data flag	Flag indicating if the submitted crypto-asset white paper contains personal data	'true' – Yes 'false' – No

APPENDIX 22: COMMISSION DELEGATED REGULATION (EU) 2025/422**of 17 December 2024****supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content, methodologies and presentation of information in respect of sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁸⁰, and in particular Article 6(12), fourth subparagraph, Article 19(11), fourth subparagraph, Article 51(15), fourth subparagraph, and Article 66(6), fourth subparagraph, thereof,

Whereas:

- (1) Transactions relating to crypto-assets, including their issuance, are validated and recorded via consensus mechanisms, namely the rules and procedures to reach an agreement on the validation of a transaction among distributed ledger technology (DLT) network nodes, which are also responsible for holding records of all transactions on a distributed ledger. The achievement of consensus, which requires the use of materials and computing power, comes with impacts on the climate and environment, which differ across DLTs depending on their specific features.
- (2) The adequate identification and disclosure of the climate and other environment-related adverse impacts linked to the use of consensus mechanisms to issue crypto-assets is therefore key to the decision-making of those investing in crypto-assets.
- (3) It is important that investors receive accurate, fair, clear, not misleading, simple, concise and comparable information on the impacts of the technologies underpinning issuance of crypto-assets on the climate and the environment. At the same time, given the distributed nature of the technology at hand, it may be difficult to obtain and disclose accurate and reliable information in this regard. It is therefore necessary to develop a list of indicators that considers those constraints to provide investors with understandable and comparable information on the adverse impacts of consensus mechanisms, based on accessible and reliable data, including estimates where necessary and duly justified.
- (4) The information referred to in Article 6(1), first subparagraph, point (j), Article 19(1), first subparagraph, point (h), Article 51(1), point (g), and Article 66(5) of Regulation (EU) 2023/1114 to be included in the crypto-asset white papers and on the websites of crypto-assets service providers regards climate and other environment-related impacts of consensus mechanisms and is therefore closely linked. To ensure consistency, coherence and comparability of that information, it is appropriate to regulate it by way of a single Regulation.

¹⁸⁰ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (5) To ensure consistency between the information found across crypto-asset white papers issued via the same consensus mechanism, as well as proportionality in complying with this Regulation, it should be possible, without prejudice to the entities' respective legal obligations, to reuse information on the consensus mechanism that are relevant to a crypto-asset for which a crypto-asset white paper is prepared, where such information has already been published in the context of another crypto-asset white paper.
- (6) Considering that all disclosing entities remain responsible for their own disclosures, including where they source information from existing crypto-asset white papers, information included in the white papers and information made available on the websites of crypto-asset service providers should be reviewed on a regular basis and updated accordingly. Considering that disclosing entities may make use of independent third parties to obtain or verify information to be disclosed, the use of such independent third parties for those purposes should be disclosed and the relevant independent third-party identified.
- (7) To facilitate investors' ability to compare between the adverse impacts of the consensus mechanisms on which are issued different crypto-assets, the information on crypto-asset service providers' websites should allow the public to compare the adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanisms and their incentive structures across all the crypto-assets in relation to which the crypto-asset service provider provides crypto-asset services.
- (8) To assess the impact of the consensus mechanism used to issue each crypto-asset on the climate and other environment-related impacts, it is appropriate to take into account both the validation of each transaction in the relevant crypto-asset, taking into account the DLT network nodes actively involved in the validation, and the maintenance of the integrity of a DLT by all DLT network nodes.
- (9) Key indicators should be used to easily understand the impacts on climate and other environment-related impacts of the consensus mechanisms. To incentivise the use of more climate and environmentally friendly consensus mechanisms and to prevent greenwashing practices, it is crucial to rely to the extent possible on quantitative metrics. Quantitative metrics should display gross energy consumption and emissions, without reflecting potential off-setting mechanisms.
- (10) Annual energy consumption should be used as the key mandatory indicator because it is considered to be the most conducive to investor awareness of the impact of consensus mechanisms. Considering the key role of electricity in the operation of DLT networks, electricity consumption should be considered a suitable proxy for energy consumption.
- (11) In order to ensure a proportionate approach to sustainability information, it is appropriate to require additional information with regard to consensus mechanisms with more significant climate and other environment-related adverse impacts, especially where they exceed a certain level of energy consumption. Therefore, supplementary key indicators on energy and greenhouse gas (GHG) emissions should be used for crypto-assets issued via consensus mechanisms with higher levels of yearly energy consumption in order to deepen investors' understanding on the adverse impacts of such consensus mechanisms.
- (12) In addition to mandatory and supplementary key indicators, it should be possible to voluntarily include, in a specific part of the white papers or the websites of crypto-asset service providers, information on climate and other environment-related indicators that may be more complex to assess or for which it may be more difficult to find relevant data, for instance in relation to waste production and the use of natural resources, such as water.
- (13) To prevent greenwashing and to ensure the comparability of information to be included in the crypto-asset white papers and on the websites of crypto-assets service providers, information regarding optional indicators should be subject to the same harmonised rules on the presentation of information and on the

methodologies as the information regarding mandatory and supplementary indicators. This applies, for instance, to indirect GHG emissions, such as upstream emissions linked to the equipment purchased by the DLT network nodes or downstream emissions related to waste management.

- (14) In order to foster consistency of disclosed information in the absence of consensus on a specific set of reliable methodologies to calculate the identified indicators at this stage, harmonised principles should nonetheless apply to ensure the comparability of disclosed information, avoid any methodological bias, and ensure the consistency of methodologies used with those referred to in the framework of the application of Directive (EU) 2022/2464 of the European Parliament and of the Council¹⁸¹. As a result, information on energy consumption and GHG emissions should be aligned with the calculation guidance laid down in Commission Delegated Regulation (EU) 2023/2772¹⁸², while the methodology used to calculate each quantitative metric and any deviations from this calculation guidance should be disclosed.
- (15) Where information related to indicators is not available in a reasonable timeframe, estimates should be disclosed together with reasonable assumptions used to calculate such estimates and with details of the best efforts used to obtain the information. Therefore, where the location of nodes cannot be identified as needed for certain disclosures, local, regional or global data should be used as necessary and appropriate. This data should be disclosed together with details on the best efforts used to obtain the information.
- (16) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA'), in cooperation with the European Banking Authority.
- (17) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹⁸³,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'incentive structure' means the set of incentives and penalties established as part of a consensus mechanism to economically incentivise distributed ledger technology (DLT) network nodes to cooperate in applying the rules and procedures of the consensus mechanism for the purpose of validating transactions in crypto-assets;

¹⁸¹ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15, ELI: <http://data.europa.eu/eli/dir/2022/2464/oj>).

¹⁸² Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards (OJ L, 2023/2772, 22.12.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2772/oj).

¹⁸³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

- (b) 'greenhouse gas (GHG) emissions' means emissions of gases listed in Part 2 of Annex V to Regulation (EU) 2018/1999 of the European Parliament and of the Council¹⁸⁴ expressed in tonnes of CO₂-equivalent;
- (c) 'climate and other environment-related indicators' means the indicators listed in the section 'Mandatory key indicator on energy consumption' of Table 2 of the Annex, in the section 'Supplementary key indicators on energy and GHG emissions' of Table 3 of the Annex, and in the section 'Optional indicators' of Table 4 of the Annex;
- (d) 'scope 1 DLT GHG emissions' means greenhouse gas (GHG) emissions generated from sources that are controlled by the distributed ledger technology (DLT) network nodes using the consensus mechanism;
- (e) 'scope 2 DLT GHG emissions' means GHG emissions from the consumption of purchased electricity, steam, or other sources of energy generated upstream from the DLT network nodes using the consensus mechanism;
- (f) 'scope 3 DLT GHG emissions' means all indirect, upstream and downstream GHG emissions not covered by points (d) and (e) that occur in the value chain of the DLT network nodes using the consensus mechanism;
- (g) 'energy from renewable sources' or 'renewable energy' means energy from renewable sources or renewable energy as defined in Article 2, point (1), of Directive (EU) 2018/2001 of the European Parliament and of the Council¹⁸⁵;
- (h) 'waste' means waste as defined in Article 2, point (23), of Directive (EU) 2018/2001;
- (i) 'waste electrical and electronic equipment' ('WEEE') means waste electrical or electronic equipment as defined in Article 3(1), point (e), of Directive 2012/19/EU of the European Parliament and of the Council¹⁸⁶;
- (j) 'non-recycled waste' means any waste not recycled within the meaning of 'recycling' in Article 3, point 17, of Directive 2008/98/EC of the European Parliament and of the Council¹⁸⁷;
- (k) 'hazardous waste' means hazardous waste as defined in Article 3, point 2, of Directive 2008/98/EC;
- (l) 'natural resources' means natural resources as defined in Table 2 of Annex II to the Delegated Regulation (EU) 2023/2772.

Article 2

Presentation of information in the crypto-asset white papers

¹⁸⁴ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1999/oj>).

¹⁸⁵ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82, ELI: <http://data.europa.eu/eli/dir/2018/2001/oj>).

¹⁸⁶ Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38, ELI: <http://data.europa.eu/eli/dir/2012/19/oj>).

¹⁸⁷ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3, ELI: <http://data.europa.eu/eli/dir/2008/98/oj>).

1. Information in crypto-asset white papers, referred to in Article 6(1), first subparagraph, point (j), Article 19(1), first subparagraph, point (h), or Article 51(1), first subparagraph, point (g), of Regulation (EU) 2023/1114, shall be reviewed and updated on a regular basis.
2. Where the information referred to in paragraph 1 can be found in other crypto-asset white papers for crypto-assets issued via the same consensus mechanism, this information may be obtained from those other crypto-asset white papers.

Article 3

General principles for the presentation of information by crypto-asset service providers

1. The following requirements shall apply to information that crypto-asset service providers are to make publicly available on their website in accordance with Article 66(5) of Regulation (EU) 2023/1114:
 - (a) the information shall be made available free of charge;
 - (b) it shall be in form of a downloadable file and presented in a way that is easy to read, with characters of readable size and a style of writing that facilitates its understanding and that facilitates comparisons between the information relating to each of the crypto-assets in relation to which the crypto-asset service provider provides services.
2. Crypto-asset service providers shall review and update the information referred to in paragraph 1 on a regular basis, at least annually. In case of material changes, the information shall be updated without undue delay and accompanied by clear indications of the changes made. The date of publication of the information and the date of the latest review or update shall be clearly indicated on the website of the crypto-asset service providers.
3. Information referred to in paragraph 1 shall be made available in at least one of the official languages of the home Member State of the crypto-asset service provider, or in a language customary in the sphere of international finance.

Where the crypto-asset service provider is providing crypto-asset services with respect to a specific crypto-asset in a Member State other than its home Member State, the information referred to in paragraph 1 for that crypto-asset shall also be made available in an official language of that host Member State or in a language customary in the sphere of international finance.

Article 4

Information to be included in the crypto-asset white papers

1. Persons drawing up the crypto-asset white papers referred to in Articles 6, 19 or 51 of Regulation (EU) 2023/1114 shall provide in those white papers the information referred to in Article 6(1), first subparagraph, point (j), Article 19(1), first subparagraph, point (h), and Article 51(1), first subparagraph, point (g), of Regulation (EU) 2023/1114, as set out in Table 2 of the Annex, in the format set out therein.
2. The persons referred to in paragraph 1 shall also provide in the white paper the information set out in Table 3 of the Annex, in the format set out therein, where the yearly energy consumption as reported in Table 2, field S.8, of that Annex exceeds 500 000 kilowatt-hours.

Where the condition laid down in the first subparagraph is not met, the persons referred to in paragraph 1 may provide in the white paper information on one or more of the supplementary indicators listed in Table 3 of the

Annex in the format of the templates set out therein. When such information is included, the corresponding information on sources and methodologies referred to in that Table shall also be provided.

3. The persons referred to in paragraph 1 may provide in the white paper information on one or more of the indicators listed in Table 4 of the Annex, in the format set out therein. When such information is included, the corresponding information on sources and methodologies, referred to in that Table, shall also be provided.

Article 5

Information to be included on the websites of crypto-assets service providers

1. Crypto-asset service providers shall, in accordance with Article 66(5) of Regulation (EU) 2023/1114, make publicly available on their website the information set out in Table 2 of the Annex, in the format set out therein.

2. Crypto-asset service providers shall, in accordance with Article 66(5) of Regulation (EU) 2023/1114, make publicly available on their website the information set out in Table 3 of the Annex, in the format set out therein, where both of the following conditions are met:

- (a) the crypto-asset service provider provides one or more of the services referred to in Article 3(1) (16), points (b), (c) and (d), of Regulation (EU) 2023/1114;
- (b) the yearly energy consumption as reported Table 2, field S.8, of the Annex exceeds 500 000 kilowatt-hours.

Where the conditions laid down in the first subparagraph are not met, the crypto-asset service provider may provide on their website information on one or more of the supplementary indicators referred to in Table 3 of the Annex in the format set out therein. When such information is provided, the corresponding information on sources and methodologies referred to in that Table shall also be provided.

3. Crypto-asset service providers may, in accordance with Article 66(5) of Regulation (EU) 2023/1114, make publicly available on their website, the information on one or more of the optional indicators referred to in Table 4 of the Annex, in the format set out therein. When such information is provided, the corresponding information on sources and methodologies referred to in that Table shall also be provided.

Article 6

Rules on the disclosures

1. Persons drawing up the crypto-asset white papers referred to in Articles 6, 19 and 51 of Regulation (EU) 2023/1114 and crypto-asset service providers shall disclose in the section 'General information' in Table 2 of the Annex all of the following information:

- (a) the name and the legal entity identifier of the person drawing up the crypto-asset white paper or crypto-asset service provider as reported, respectively pursuant to Commission Implementing Regulation (EU) 2024/2984¹⁸⁸ or to the Commission Delegated Regulation (EU) 2025/305¹⁸⁹;
- (b) information on the features of the consensus mechanisms used for the validation of transactions and for the maintenance of the integrity of the distributed ledger, of transactions and the incentive structure as reported pursuant to Implementing Regulation (EU) 2024/2984;
- (c) the reference period of the statement, and the period for which estimates are used.

2. Where, pursuant to Article 2(2), persons drawing up crypto-asset white papers use information obtained from other crypto-asset white papers in order to comply with Article 4 they shall provide the name and relevant identifier of the person drawing up that other crypto-asset white paper in the section on 'Sources and methodologies' of the relevant Table of the Annex.

3. Where, pursuant to Article 66(5) of Regulation (EU) 2023/1114, crypto-asset service providers use information obtained from crypto-asset white papers in order to comply with Article 5, they shall provide the name and relevant identifier of the person drawing up that white paper in the section on 'Sources and methodologies' of the relevant Table of the Annex.

4. Where the information referred to in Tables 2, 3 or 4 of the Annex was subject to a verification by one or more third parties, the names of those third parties shall be indicated in the section on 'Sources and methodologies' of the relevant Table of the Annex.

5. The methodologies used to calculate the climate and other environment-related indicators shall be rigorous, systematic, objective, capable of validation and applied continuously.

The information referred to in Table 2, field S.8, Table 3, fields S.10 and S.11, and Table 4, fields S.17 and S.18, of the Annex shall be calculated in accordance with the calculation guidance in point AR 32 of Appendix A to the ESRS E1 in Annex I to Delegated Regulation (EU) 2023/2772.

The information referred to in Table 3, fields S.12, S.13 and S.14, and Table 4, fields S.19, S.20 and S.21, of the Annex shall be calculated in accordance with the calculation guidance in points AR 39, 43, 45, 46 and 47 of Appendix A to the ESRS E1 in Annex I of Delegated Regulation (EU) 2023/2772.

6. Where DLT network nodes use mechanisms to off-set their energy consumption and GHG emissions, the use of these mechanisms may be separately disclosed in the section 'Sources and methodologies' of Tables 2, 3 and 4 of the Annex. The effect of such off-setting mechanisms shall not be taken into account when calculating the climate and other environment-related indicators.

7. Where information relating to the climate and other environment-related indicators is not readily available, the information referred to in Article 6(1), first subparagraph, point (j), Article 19(1), first subparagraph, point (h), Article 51(1), point (g), or Article 66(5) of Regulation (EU) 2023/1114 shall contain estimates, together with details

¹⁸⁸ Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to forms, formats and templates for the crypto-asset white papers (OJ L, 2024/2984, 3.12.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2984/oj).

¹⁸⁹ Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider (OJ L, 2025/305, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/305/oj).

of the best efforts used to obtain that information, including by conducting additional research, cooperating with third party data providers or external experts or making reasonable assumptions.

Those details shall be indicated in the section on 'Sources and methodologies' of Tables 2, 3 and 4 of the Annex and shall include:

- (a) the fact that estimates have been used and a clear indication of which sustainability indicators are provided based on estimates;
- (b) the methodology used to calculate the climate and other environment-related indicators, including a description of deviations from the calculation guidance referred to in paragraph 5, second and third subparagraphs, an explanation of the reasons for such deviations, and the main assumptions and precautionary principles underlying those estimates.

8. In the section on 'Sources and methodologies' of Tables 2, 3 and 4 of the Annex the following information may be provided:

- (a) the methodology to estimate missing, unreported, or underreported metrics;
- (b) the external datasets used in the estimation of missing, unreported or underreported metrics;
- (c) the name and a hyperlink to the website of the external provider of the data on which the estimates are based, where relevant; and
- (d) the methodology used to offset their energy consumption in accordance with paragraph 6, where relevant.

Where any information referred to in points (a) to (d) is not provided, it shall be indicated in a clear manner that that information is not included.

Article 7

Entry into force

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

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

Done at Brussels, 17 December 2024.

ANNEX

Template for the presentation of the information on principal adverse impacts on the climate and other environment-related adverse impacts in the crypto-asset white paper and on the website of a crypto-asset service provider

Table 1

Legend for Tables 2, 3 and 4

Symbol	Data type	Definition
{DATEFORMAT}	ISO 8601 date format	Dates shall be indicated in the following format: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. Decimal separator is '.' (full stop); Negative numbers are prefixed with '-' (minus); Values are rounded and not truncated.

Table 2

Mandatory information on principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism

N	Field	Content to be reported	Format and standards to be used
General information			

S.1	Name	Name reported in Annex II to Commission Implementing Regulation (EU) 2024/2984 ¹⁹⁰ , Table 2, fields A.1, B.2 or C.1, Table 3, field A.1, or Table 4, or name of the crypto-asset service provider	Free alphanumerical text
S.2	Relevant legal entity identifier	Identifier referred to in Annex II to Implementing Regulation (EU) 2024/2984, Table 2, fields A.6 or A.7, B.7 or B.8 or C.6 or C.7, Table 3, fields A.7 and A.8 or Table 4, fields A.7 and A.8 or identifier of the crypto-asset service provider referred to in Article 1 of Commission Delegated Regulation (EU) 2025/305 ¹⁹¹	Free alphanumerical text
S.3	Name of the crypto-asset	Name of the crypto-asset, as reported in Annex II to Implementing Regulation (EU) 2024/2984, Table 2, field D.2, Table 3, field B.1, or Table 4, field B.1 where relevant	Free alphanumerical text
S.4	Consensus Mechanism	The consensus mechanism, as reported in Annex II to Implementing Regulation (EU) 2024/2984, Table 2, field H.4, Table 3, field E.4, or Table 4, field E.5, where relevant, including the information referred to in Article 6(1), point (b), of this Regulation.	Free alphanumerical text
S.5	Incentive Mechanisms and Applicable Fees	Incentive mechanisms to secure transactions and any fees applicable, as reported in Annex II to Implementing Regulation (EU) 2024/2984, Table 2, field H.5, Table 3, field E.5 or Table 4, field E.6, where relevant. For persons drawing up a crypto-asset white paper pursuant to Articles 6, 19 or 51 of Regulation (EU) 2023/1114, the information may be provided by including a cross-reference to the aforementioned fields.	Free alphanumerical text
S.6	Beginning of the period to which the disclosed information relates	Start date of the period covered by the disclosed information	{DATEFORMAT}
S.7	End of the period to which the disclosed information relates	End date of the period covered by the disclosed information	{DATEFORMAT}
Mandatory key indicator on energy consumption			
S.8	Energy consumption	Total amount of energy used for the validation of transactions and the maintenance of the integrity of the	Amount in kilowatt-hours

¹⁹⁰ Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to forms, formats and templates for the crypto-asset white papers (OJ L, 2024/2984, 3.12.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2984/oj).

¹⁹¹ Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider (OJ L, 2025/305, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/305/oj).

		distributed ledger, expressed in kilowatt-hours per calendar year	(kWh) {DECIMAL-18/5}
Sources and methodologies			
S.9	Energy consumption sources and methodologies	Sources and methodologies used in relation to the information reported in field S.8	Free alphanumerical text

Table 3

Supplementary information on principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism

N	Field	Content to be reported	Format and standards to be used
Supplementary key indicators on energy and GHG emissions			
S.10	Renewable energy consumption	Share of energy from renewable sources, used for the validation of transactions and the maintenance of the integrity of the distributed ledger, expressed as a percentage of the total amount of energy used per calendar year	Percentage {DECIMAL-11/10}
S.11	Energy intensity	Average amount of energy used per validated transaction	Amount in kWh {DECIMAL-18/5}
S.12	Scope 1 DLT GHG emissions – Controlled	Scope 1 GHG emissions per calendar year for the validation of transactions and the maintenance of the integrity of the distributed ledger	Amount in tonnes (t) carbon dioxide equivalent (CO ₂ e) {DECIMAL-18/5}
S.13	Scope 2 DLT GHG emissions – Purchased	Scope 2 GHG emissions, expressed in tCO ₂ e per calendar year for the validation of transactions and the maintenance of the integrity of the distributed ledger	Amount in tCO ₂ e {DECIMAL-18/5}
S.14	GHG intensity	Average GHG emissions (scope 1 and scope 2) per validated transaction	Amount in kilogram (kg) CO ₂ e (Tx) {DECIMAL-18/5}
Sources and methodologies			
S.15	Key energy sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.10 and S.11	Free alphanumerical text

S.16	Key GHG sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.12, S.13 and S.14	Free alphanumerical text

Table 4

Optional information on principal adverse impacts on the climate and on other environment-related adverse impacts of the consensus mechanism

N	Field	Content to be reported	Format and standards to be used
Optional indicators			
S.17	Energy mix	Description of the relative contributions of each different primary energy source used for the validation of transactions and the maintenance of the integrity of the distributed ledger, expressed as percentages	Percentage {DECIMAL-11/10}
S.18	Energy use reduction	Energy use reduction targets or commitments, expressed in absolute or relative reduction of energy use over one calendar year	Amount in kWh {DECIMAL-18/5} or Percentage {DECIMAL-11/10}
S.19	Carbon intensity	Carbon intensity of the energy used for the validation of transactions and the maintenance of the integrity of the distributed ledger	Amount in kgCO ₂ e per kWh {DECIMAL-18/5}
S.20	Scope 3 DLT GHG emissions – Value chain	Scope 3 GHG emissions for the validation of transactions and the maintenance of the integrity of the distributed ledger per calendar year	Amount in tCO ₂ e {DECIMAL-18/5}
S.21	GHG emissions reduction targets or commitments	GHG emissions reduction targets or commitments, expressed in terms of absolute or relative reduction in GHG emissions over one calendar year	Free alphanumerical text
S.22	Generation of waste electrical and electronic equipment (WEEE)	Total amount of WEEE generated for the validation of transactions and the maintenance of the integrity of the distributed ledger per calendar year	Amount in t {DECIMAL-18/5}
S.23	Non-recycled WEEE ratio	Share of the total amount of WEEE generated for the validation of transactions and the maintenance of the integrity of the distributed ledger, not recycled per calendar year	Percentage {DECIMAL-11/10}

S.24	Generation of hazardous waste	Total amount of hazardous waste generated for the validation of transactions and the maintenance of the integrity of the distributed ledger per calendar year	Amount in t {DECIMAL-18/5}
S.25	Generation of waste (all types)	Total amount of waste generated by the validation of transactions and the maintenance of the integrity of the distributed ledger	Amount in t {DECIMAL-18/5}
S.26	Non-recycled waste ratio (all types)	Share of the total amount of waste generated for the validation of transactions and the maintenance of the integrity of the distributed ledger not recycled per calendar year	Percentage {DECIMAL-11/10}
S.27	Waste intensity (all types)	Total amount of waste generated per transaction validated	Amount in grams (g) per Tx {DECIMAL-18/5}
S.28	Waste reduction targets or commitments (all types)	Waste reduction targets or commitments, expressed in absolute or relative reduction in waste generation over one calendar year	Free alphanumerical text
S.29	Impact of the use of equipment on natural resources	Description of the impact on natural resources of the production, the use and the disposal of the devices of the DLT network nodes	Free alphanumerical text
S.30	Natural resources use reduction targets or commitments	Natural resources use reduction targets or commitments, expressed in absolute or relative reduction in use of natural resources over one calendar year	Free alphanumerical text
S.31	Water use	Total water consumption linked to the validation of transactions and the maintenance of the integrity of the distributed ledger, expressed in cubic meters	Amount in cubic meters {DECIMAL-18/5}
S.32	Non recycled water ratio	Share of the total water consumed not recycled and not reused linked to the validation of transactions and the maintenance of the integrity of the distributed ledger per calendar year, expressed as a percentage	Percentage {DECIMAL-11/10}
Sources and methodologies			
S.33	Other energy sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.17 and S.18	Free alphanumerical text
S.34	Other GHG sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.19, S.20 and S.21	Free alphanumerical text
S.35	Waste sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.22, S.23, S.24, S.25, S.26, S.27 and S.28	Free alphanumerical text

S.36	Natural resources sources and methodologies	Sources and methodologies used in relation to the information reported in fields S.29, S.30, S.31 and S.32	Free alphanumerical text

APPENDIX 23: COMMISSION DELEGATED REGULATION (EU) 2025/1140**of 27 February 2025****supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying records to be kept of all crypto-asset services, activities, orders and transactions undertaken**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹⁹², and in particular Article 68(10), third subparagraph, thereof,

Whereas:

- (1) The records crypto-asset service providers are required to keep should be adapted to their type of business and the range of crypto-asset services, activities, orders, and transactions they undertake.
- (2) Crypto-asset service providers should be free to determine the manner in which they keep records of relevant data relating to all orders and transactions in crypto-assets. However, consistent and comparable records on services, activities, orders and transactions are essential for competent authorities to fulfil their supervisory tasks and to take enforcement measures. In particular, competent authorities should be able to perform the same analysis on all record datasets, regardless of which crypto-asset service provider produced the record. Crypto-asset service providers should therefore provide consistent details of the records on services, activities, orders and transactions by using uniform standards where a competent authority requests such information pursuant to Article 94 of Regulation (EU) 2023/1114. For the same reasons, it is necessary to specify that the records should be maintained in a medium allowing effective supervision by competent authorities.
- (3) In order to leverage from the knowledge and application of Regulation (EU) No 600/2014 of the European Parliament and of the Council¹⁹³, to ensure consistent reporting standards across financial sector and to minimise the reporting burden for crypto-asset service providers, data should be recorded in accordance with the standards referred to in that Regulation. In order to ensure consistency between this Delegated Regulation and Commission Delegated Regulation (EU) 2025/416¹⁹⁴, the same standards should apply when the records are also required in accordance with that Delegated Regulation.

¹⁹² OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

¹⁹³ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84, ELI: <http://data.europa.eu/eli/reg/2014/600/oj>).

¹⁹⁴ Commission Delegated Regulation (EU) 2025/416 of 29 November 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the content and format of order book records for crypto-asset service providers operating a trading platform for crypto-assets (OJ L, 2025/416, 14.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/416/oj).

- (4) To ensure that competent authorities can properly supervise services provided by crypto-asset service providers, it is necessary that crypto-asset service providers keep a record of the policy arrangements and procedures put in place to comply with Regulation (EU) 2023/1114.
- (5) Market abuse, including market manipulation, may be carried out through various means, including through algorithmic trading. Therefore, in order to ensure effective market surveillance, where investment decisions are made by a person other than the client or by a computer algorithm, that person or algorithm should be identified in the order and transaction records using unique, robust and consistent identifiers. For the same reasons, it is important to lay down that where more than one person in a crypto-asset service provider makes the investment decision, the person with primary responsibility for the decision is to be identified in the record.
- (6) To ensure unique, consistent and robust identification of natural persons in order and transaction records, those natural persons should be identified by a concatenation of the country of their nationality followed by identifiers assigned by the country of nationality of those persons. Where those identifiers are not available, natural persons should be identified by identifiers created from a concatenation of their date of birth and name.
- (7) It is necessary that certain personal data are recorded by crypto-asset service providers to identify their clients or other natural persons relevant for orders or transactions in crypto-assets, as these data are fundamental to ensure efficient supervision by competent authorities, including in the area of market abuse. For all instances of identifying natural persons, this is to be done by following the level of prioritization of the different identifiers detailed in Annex II of Commission Delegated Regulation (EU) 2017/590¹⁹⁵.
- (8) It is possible that natural persons who need to be identified for recordkeeping purposes are residents of a country other than the one of their nationality. The country of residence of natural persons can affect several obligations under Regulation (EU) 2023/1114, and is therefore an important data element for ensuring effective supervision by competent authorities. Whenever their country of residence is different from that person's nationality, this should be indicated by providing the country code of the country of residence of that natural person.
- (9) To facilitate market surveillance and to allow for the comparability of the records to be kept by crypto-asset service providers, clients of crypto-asset service providers that are legal entities should be identified with a code that is compatible with the internationally established criteria for the development of robust identification systems for the monitoring of financial markets. Such code should be unique, neutral, reliable, open source, scalable, accessible, available for free or at a reasonable cost, and subject to an appropriate governance framework. These criteria were also used by the competent authorities for assessing the most

¹⁹⁵ Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (OJ L 87, 31.3.2017, p. 449, ELI: http://data.europa.eu/eli/reg_del/2017/590/oj).

appropriate identifiers in previous technical standards on supervisory data^{196 197}, to ensure consistency and comparability of data on financial transactions, and therefore should also be applicable in the context of this Regulation.

- (10) LEI is a widely recognised, financially and operationally accessible international identifier used in financial markets. LEI is an international identifier that ensures access to the underlying data at all times, allowing for comparability and aggregation of information at Union level, improving the quality and timeliness of aggregated data and reducing the reporting burden for crypto-asset service providers. Therefore, crypto-asset services providers should, where available, record the LEI of clients that are legal persons on whose behalf they carry out orders and execute transactions. However, there are other legal entity identifiers that may be appropriate for use in the context of this Regulation. Directive (EU) 2017/1132 of the European Parliament and of the Council¹⁹⁸ requires companies subject to that Directive to have a European Unique identifier ('EUID'), which unequivocally identifies companies and as such is an appropriate tool for the identification of entities in the EU. Within a period of 18 months after the entry into force of this Regulation, the Commission and ESMA will work closely to facilitate the use of EUID as a tool to identify clients that are legal entities for the purpose of this Regulation. Following the completion of this work, the Commission should assess the readiness to use EUID for the purposes of Article 14. Additionally, to ensure openness to other identifiers which may be fit for supervisory purposes and support the integrity of the market, this Regulation sets out criteria that should be met by those alternative identifiers. To enable the market to use such eligible alternative identifiers, ESMA should approve their use where they meet the criteria set out in this Regulation.
- (11) A unique method for the identification and classification of parties compliant with the above-mentioned criteria and instruments that follow these principles directly supports efforts to achieve data-driven market monitoring by competent authorities.
- (12) Manual or algorithmic abusive behaviours can also occur when a crypto-asset service provider determines the trading platform for crypto-asset to access or the crypto-asset service provider to which the orders are to be transmitted or any other conditions related to the execution of the order. Therefore, to ensure effective market surveillance, a person or computer algorithm within the crypto-asset service provider performing such activities should be identified in the order and transaction records. For the same reasons, where both a person and computer algorithm are involved, or more than one person or algorithm is involved, the crypto-asset service provider should determine, on a consistent basis following predetermined criteria, which person or algorithm is primarily responsible for those activities.

¹⁹⁶ Commission Implementing Regulation (EU) 2019/363 of 13 December 2018 laying down implementing technical standards with regard to the format and frequency of reports on the details of securities financing transactions (SFTs) to trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council and amending Commission Implementing Regulation (EU) No 1247/2012 with regard to the use of reporting codes in the reporting of derivative contracts (OJ L 81, 22.3.2019, p. 85, ELI: http://data.europa.eu/eli/reg_impl/2019/363/oj).

¹⁹⁷ Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 352, 21.12.2012, p. 20, ELI: http://data.europa.eu/eli/reg_impl/2012/1247/oj).

¹⁹⁸ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46, ELI: <http://data.europa.eu/eli/dir/2017/1132/oj>).

- (13) To ensure that competent authorities have access to information that is relevant, accurate and complete, the details relating to the order to be transmitted between crypto asset service providers should be specified.
- (14) Given the cross-border nature of crypto assets trading, in order to avoid data gaps where a crypto-asset service provider transmits orders or executes transactions via an entity to which Regulation (EU) 2023/1114 does not apply, the crypto-asset service provider should record the transmission of those orders or the execution of those transactions as if it had transmitted those orders or executed those transactions itself. Such information may be of particular importance for the performance of adequate market monitoring and market abuse supervision by the competent authority.
- (15) To properly monitor the integrity and stability of the markets in crypto-assets, competent authorities need reliable, consistent and standardised information on the crypto-assets that are traded. Such information should enable them to identify the individual crypto-asset being traded according to internationally established principles. In addition, competent authorities should be able to retrieve the main characteristics of the crypto-assets traded, including their technology-specific features. Crypto-asset service providers should therefore use an internationally agreed digital token identifier to identify crypto-assets in the order and transactions records that they provide to competent authorities. The Digital Token Identifier (DTI) managed by the Digital Token Identifier Foundation is an internationally agreed identifier that guarantees reliable, consistent, standardised and available information and allows for comparability and aggregation of information at the level of the European Union, improving the quality and timeliness of aggregated data and reducing the reporting burden for crypto-asset service providers. Therefore, crypto-asset service providers should be able to use the DTI to identify crypto-assets. However, to ensure openness to other token identifiers which may be fit for supervisory purposes and support the integrity of the market, it is necessary to lay down criteria that should be met by those alternative identifiers. To enable the market to use eligible alternative identifiers, ESMA should approve their use where they meet the criteria set out in this Regulation.
- (16) To be able to properly monitor the integrity and stability of the markets in crypto-assets, competent authorities need reliable, consistent and standardised information on the crypto-assets that are traded. Such information should enable them to classify the individual crypto-asset being traded according to internationally established principles. Such classification should also enable authorities to connect data on white papers with data on transactions and orders in the same crypto asset. The ISO code for the Classification of Financial Instruments (CFI) is an international standard used for classifying financial instruments. However, crypto-assets that are not financial instruments cannot currently be described using the CFI code. The ISO CFI is being revised to accommodate the classification of crypto-assets, but this revision will not be finalized before the application of this Regulation. Therefore, until such revision is completed, an interim classification indicating the type of crypto-assets (crypto-assets other than asset-referenced tokens and e-money tokens, asset-referenced tokens, and e-money tokens) should be used.
- (17) To ensure efficient and effective market monitoring by competent authorities, transaction records should reflect whether the transaction was executed wholly or partly through a branch of the crypto-asset service provider located in another Member State or in a third country. The inclusion of data detailing the activity of each branch in the records kept by the crypto-asset service providers, should not lead to a disproportionate administrative burden for the crypto-asset service provider, but would enable competent authorities to supervise the services provided by crypto-asset service providers more efficiently and to enhance the visibility on how those services are provided within the different Member States.
- (18) In line with the principle of data minimisation, crypto-asset service providers should only keep information that is necessary and sufficient to enable competent authorities to carry out a comprehensive assessment of the crypto-asset service provider's compliance with the relevant requirements of Regulation (EU)

2023/1114 and with that Regulation's provisions on market abuse. When processing personal data included in the records, crypto-asset service providers and competent authorities should comply with the relevant provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁹⁹.

- (19) In order to ensure certain and efficient identification of crypto-asset service providers responsible for executing orders or transactions, those providers should ensure that they are identified in the records maintained pursuant to their record-keeping obligations using validated, issued, and duly renewed legal entity identifiers (LEIs). Pursuant to Article 62 in Regulation (EU) 2023/1114, crypto-asset service providers are required to obtain a legal entity identifier in order to be authorised. Furthermore, to enable the competent authorities to fulfil their supervisory tasks and take enforcement measures in accordance with Article 68(10) of Regulation (EU) 2023/1114, such identifier should be verified, up-to-date and included in the records to be maintained in accordance with this Regulation.
- (20) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁰⁰ and delivered an opinion on 28 August 2024.
- (21) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA').
- (22) ESMA has conducted open public consultations on the draft regulatory technical standards upon which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁰¹,

HAS ADOPTED THIS REGULATION:

SECTION 1

Retention of records and general provision on records

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'transaction' means the conclusion of an acquisition or disposal of crypto-assets other than the crypto-assets referred to in Article 2(3) and (4) of Regulation (EU) 2023/1114;

¹⁹⁹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

²⁰⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

²⁰¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

- (2) 'undertaking a transaction' means executing a transaction or transmitting an order for crypto-assets on behalf of a client;
- (3) 'executing a transaction' means providing any of the following services or performing any of the following activities that result in a transaction:
 - (a) reception and transmission of orders for crypto-assets on behalf of clients;
 - (b) execution of orders on behalf of clients;
 - (c) exchange of crypto-assets for funds or for other crypto-assets;
 - (d) making an investment decision in accordance with a discretionary mandate given by a client;
 - (e) transfer of crypto-assets to or from accounts.

Article 2

Retention of records

1. The records shall be retained in a medium that allows the storage of information in a way accessible for future reference by the competent authority, in such a form and manner that all of the following conditions are met:
 - (a) competent authorities are able to access those records readily and to reconstitute each key stage of the processing of each crypto-asset service, activity, order or transaction;
 - (b) it is possible to easily ascertain any corrections or other amendments to the records, and the contents of the records prior to such corrections or amendments;
 - (c) it is not possible to manipulate or alter the records;
 - (d) it allows for the exploitation of the data by means of an ICT or any other efficient system, where it is not possible to easily analyse the data due to its volume and nature;
 - (e) the crypto-asset service provider's record-keeping arrangements comply with the record keeping requirements under this Regulation irrespective of the technology used.
2. Crypto-assets service providers shall keep the records listed in Section 1 of the Annex, depending upon the nature of their services and activities.
3. The obligation to keep the records listed in Section 1 of the Annex shall not affect any obligation to keep records set out in any other Union act.

SECTION 2

Record keeping relating to specific crypto-asset services and to activities of crypto-asset service providers

Article 3

Record-keeping of the crypto-asset service provider's policies and procedures

1. Crypto-asset service providers shall keep records of any policies and procedures they are required to maintain in writing under Regulation (EU) 2023/1114 and its implementing measures.
2. Crypto-asset service providers shall also keep the records of the assessment and periodical review, carried out by their management body, of the effectiveness of the policy arrangements, and procedures referred to in Articles 68(6) of Regulation (EU) 2023/1114, including of any deficiencies identified in relation to such policy arrangements and procedures and of any measures taken to address such deficiencies.

Article 4

Record-keeping of documents setting out the crypto-asset service provider's and the client's rights and obligations

1. Crypto-asset service providers shall keep the documents setting out their rights and obligations in relation to their provision of service, as well as those setting out the rights and obligations of their clients for a period of five years from the termination of the agreement to provide services.
2. At the request of a competent authority, made before the expiry of the five-year period referred to in paragraph 1, crypto-asset service providers shall keep the documents referred to in paragraph 1 for a period of up to seven years from the date of termination of the agreement to provide crypto-asset services.

Article 5

Record-keeping in relation to the safekeeping of clients' crypto-assets and funds

1. Crypto-asset service providers shall keep records enabling them to distinguish, at any time and without delay, crypto-assets and funds held for one client from crypto-assets and funds held for any other client and from their own assets.
2. Crypto-asset service providers shall maintain their records in a way that ensures that they may be used for auditing purposes as records.
3. Such records shall include the following:
 - (a) records that readily identify the balances of crypto-assets and funds held for each client;
 - (b) where clients' funds are held by crypto-asset service providers in accordance with Article 70(2) and (3) of Regulation (EU) 2023/1114, details of the accounts in which those funds are held and the relevant agreements between the crypto-assets service provider with the credit institutions or central banks with which the clients' funds are placed;
 - (c) details of the accounts opened with third parties holding crypto-assets for the crypto-assets service provider and of the outsourcing agreements with those third parties;
 - (d) details of third parties carrying out any tasks outsourced in accordance with Article 73 of Regulation (EU) 2023/1114 and details of the outsourced tasks;
 - (e) names and functions of persons responsible for the safekeeping of clients' crypto-assets and funds within the crypto-asset service provider;
 - (f) agreements that establish client ownership over crypto-assets and funds.

SECTION 3***Record-keeping of orders and transactions******Article 6*****Record-keeping of orders**

1. For every initial order received from a client and for every initial decision to deal taken, crypto-asset service providers shall record and keep the details set out in the second and third columns of Table 2 of Section 2 of the Annex and the details set out in Table 4 of Section 4 of that Annex, to the extent that such details concern the initial orders and those decisions to deal.
2. Where a competent authority requests any of the details referred to in paragraph 1 in accordance with Article 94(1), points (a) or (d), or Article 94(3), point (a), of Regulation (EU) 2023/1114, the crypto-assets service providers shall provide such details as set out in the fourth column of Table 2 of Section 2 of the Annex to this Regulation.
3. Where the details set out in Table 2 of Section 2 of the Annex to this Regulation are also required pursuant to Article 76 of Regulation (EU) 2023/1114 or to Articles 25 and 26 of Regulation (EU) No 600/2014, they shall be maintained according to the standards set out in those Regulations.

Article 7**Record keeping of transactions**

1. Crypto-asset service providers shall, immediately after having undertaken a transaction, record the details set out in the second and third columns of Table 3 of Section 3 and Table 4 of Section 4 of the Annex.
2. Where competent authorities request any of the details referred to in paragraph 1 in accordance with Article 94(1), points (a) or (d), or Article 94(3), point (a), of Regulation (EU) 2023/1114, the operators of trading platforms for crypto-assets shall provide such details as set out in the fourth column of Table 3 of Section 3 of the Annex.

Article 8**Identification of person or computer algorithm within the crypto-asset service provider making the investment decision**

1. Where a person or computer algorithm within a crypto-asset service provider makes the investment decision to acquire or dispose of a specific crypto-asset on behalf of the crypto-asset service provider or on behalf of a client in accordance with a discretionary mandate given by the client, that person or computer algorithm shall be identified and recorded as specified in Field 41 of Table 3 of Section 3 of the Annex.
2. Where a person and computer algorithm are both involved in taking the investment decision, or more than one person or algorithm are involved in taking that decision, the crypto-asset service provider shall record the person or computer algorithm with primary responsibility for that decision.

Article 9

Designation to identify natural persons

1. A client who is a natural person shall be identified in the crypto-asset service provider's records using the designation resulting from the concatenation of the ISO 3166-1 alpha-2 (2-letter country code) of the client's nationality, followed by the national client identifier specified in Annex II to Delegated Regulation (EU) 2017/590, based on the client's nationality.
2. The national client identifier referred to in paragraph 1 shall be assigned in accordance with the priority levels provided for in Annex II of Delegated Regulation (EU) 2017/590 using the highest priority identifier that a person has, regardless of whether that identifier is already known to the crypto-asset service provider.
3. For the purposes of identifying a natural person, if the person is a national of more than one European Economic Area (EEA) country, the country code of the first nationality when sorted alphabetically by its ISO 3166-1 alpha-2 code and the identifier of that nationality assigned in accordance with paragraph 2 shall be used.
4. Where a natural person has a non-EEA nationality, the highest priority identifier in accordance with the field referring to 'all other countries' provided in Annex II of Delegated Regulation (EU) 2017/590 shall be used. Where a natural person has EEA and non-EEA nationality, the country code of the EEA nationality and the highest priority identifier of that nationality assigned in accordance with paragraph 2 shall be used.
5. Where a client is a resident of a country other than the one of its nationality, crypto-asset service providers shall also identify that person based on the country of residence of the person as prescribed in Field 41 of Table 2 in the Annex.
6. Where the identifier assigned in accordance with paragraph 2 is based on CONCAT, the client shall be identified by the crypto-asset service provider using the concatenation of the following elements in the following order:
 - (a) the date of birth of the person in the format YYYYMMDD;
 - (b) the five first characters of the first name of the person;
 - (c) the five first characters of the surname of the person.
7. For the purposes of paragraph 6, prefixes to names shall be excluded and first names and surnames shorter than five characters shall be appended by '#' so as to ensure that references to names and surnames in accordance with paragraph 6 contain five characters. All characters shall be in upper case. No apostrophes, accents, hyphens, punctuation marks or spaces shall be used.

Article 10

Identification of a person or computer algorithm determining conditions for the execution of a transaction

1. Where a person or computer algorithm within the crypto-asset service provider which executes a transaction determines which trading platform for crypto-assets located outside the Union to access, which other crypto-asset service provider to transmit orders to or any conditions related to the execution of a transaction, that employee or computer algorithm shall be identified in Field 41 of Table 3 in Section 3 of the Annex.

2. Where a person within the crypto-asset service provider takes decisions determining the execution of the transaction, the crypto-asset service provider shall assign a designation for identifying that person in its transaction records in accordance with Article 9.
3. Where a computer algorithm operating under the control of the crypto-asset service provider takes decisions determining the execution of the transaction, that computer algorithm shall be identified in Field 43 of the Table in Section 3 of the Annex.
4. Where a person and computer algorithm are both involved in execution of the transaction, or more than one person or algorithm are involved, the crypto-asset service provider shall record the person or computer algorithm primarily responsible for the execution of the transaction in Field 43 of Table 3 in Section 3 of the Annex.

Article 11

Recording of reception and transmission of orders

1. Crypto-asset service providers that receive and transmit to another crypto-asset service provider an order for crypto-assets on behalf of clients as referred to in Article 1(3)(a) shall record the details of such orders as specified in Fields 1, 2, 10, 12, 14, 15, 16, 17, 19, 20, 21, 25, 37 of Table 2 of Section 2 of the Annex, if and to the extent that those fields are relevant for that order.
2. Where the order transmitted was received from a crypto-asset service provider who had previously transmitted that order, the fields provided pursuant to paragraph 1 shall be those identifying the transmitting crypto-asset service provider.
3. Where an order is transmitted more than one time, the order details referred to in paragraph 1 shall be those of the client of the crypto-asset service provider who first transmitted the order and shall be recorded by the crypto-asset service provider who transmitted the order for the first time.
4. Where orders are aggregated for more than one client, the order details referred to in paragraph 1 shall be recorded for each client.

Article 12

Recording of orders and transactions executed via trading platforms or service providers to which Regulation (EU) 2023/1114 does not apply

1. Where a crypto-asset service provider executes an order or a transaction on behalf of a client through a trading platform for crypto-assets or a service provider to which Regulation (EU) 2023/1114 does not apply, the crypto-asset service provider shall record the details of the order or transaction as if it had executed the order or transaction itself.
2. The crypto-asset service provider shall record the information referred to in paragraph 1 in the fields specified in Table 2 of Section 2 and in Table 3 of Section 3 of the Annex, where those fields are applicable to the order or transaction in question.

*Article 13***Recording of reception and transmission of orders to entities to which Regulation (EU) 2023/1114 does not apply**

1. Where a crypto-asset service provider transmits an order to an entity to which Regulation (EU) 2023/1114 does not apply, the crypto-asset service provider shall record the details of the transmitted order in the fields specified in Table 2 of Section 2 of the Annex, to the extent those fields are applicable to the order or transaction in question.
2. Where the order is aggregated for several clients, the information referred to in Article 9 and 14, as applicable, shall be recorded for each client.

*Article 14***Identification of clients that are legal entities**

1. When providing to the competent authorities the information referred to in Articles 6 and 7, a crypto-asset service provider shall identify any clients that are legal entities by using a legal entity identifier code corresponding to those clients.
2. Crypto-asset service providers shall record the legal entity identifier codes that comply with the ISO 17442 standard and are included in the Global LEI database maintained by the Central Operating Unit appointed by the Legal Entity Identifier Regulatory Oversight Committee.
3. Where the client does not have a legal entity identifier compliant with the ISO 17442 standard, the crypto asset service provider shall obtain one for the client, or use an identifier defined at Union level which meets all of the following characteristics:
 - (a) is unique;
 - (b) is neutral;
 - (c) is reliable;
 - (d) is open source;
 - (e) is scalable;
 - (f) is accessible;
 - (g) is available for free or at a reasonable cost;
 - (h) is subject to an appropriate governance framework.

*Article 15***Identification of crypto-assets**

When providing information to competent authorities under Articles 6 and 7, a crypto-asset service provider shall identify the crypto-assets that are the subject of the recorded order or transaction, or used as a means of payment, by using a digital token identifier that is compliant with the ISO 24165 standard or an equivalent unique identifier approved by ESMA at Union level, which meets all of the following characteristics:

- (a) is unique;
- (b) is neutral;
- (c) is reliable;
- (d) is open source;
- (e) is scalable;
- (f) is accessible;
- (g) is available at a reasonable cost basis; and
- (h) is subject to an appropriate governance framework.

Article 16

Recording of transactions undertaken by branches

1. Where a crypto-asset service provider undertakes a transaction wholly or partly through its branch, it shall include in its transaction records, the ISO 3166 country code of such branch, in accordance with Fields 7, 16, 34, 42 or 44 of Table 3 in Section 3 of the Annex.
2. The crypto-asset service provider shall include in the transaction records the following information:
 - (a) whether the branch received the order from a client or whether the branch made an investment decision for a client in accordance with a discretionary mandate given to it by the client;
 - (b) whether the branch has supervisory responsibility for the person taking the investment decision concerned;
 - (c) whether the branch has supervisory responsibility for the person determining the conditions for execution of the transaction;
 - (d) whether the transaction was fully or partially undertaken on a trading platform for crypto-assets located outside the Union using the branch's membership of that trading platform for crypto-assets.

Article 17

Identification of the crypto-asset service provider undertaking orders and transactions

1. Crypto-asset service providers that undertake orders or transactions which trigger the obligation to keep records shall ensure that they are identified in the records to be maintained pursuant to this Regulation with a correct legal entity identifier which complies with the ISO 17442 standard and is included in the Global LEI database maintained by the Central Operating Unit appointed by the Legal Entity Identifier Regulatory Oversight Committee.
2. Crypto-asset service providers shall ensure that the reference data related to their legal entity identifier is renewed in accordance with the terms of any of the accredited Local Operating Units of the Global Legal Entity Identifier System.

Article 18

Entry into force

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

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

Done at Brussels, 27 February 2025.

ANNEX

SECTION 1

Records of services and activities: list of records to be kept by crypto-asset service providers according to the nature of their services and activities

Type of record	Summary of content
Communication with clients	
Marketing communications	Each marketing communication issued by the crypto-asset service provider (except in oral form) or on its behalf.
Information to clients	Information other than marketing communication provided by the crypto-asset service provider, or on its behalf, to the client about the crypto-asset service provider, its services and activities, crypto-assets, and the applicable costs and related charges.
Records of communication with clients	Records of telephone conversations or electronic communications relating to transactions or to the reception, transmission and execution of client orders, including where such conversations or communications do not result in the conclusion of a transaction or in the provision of the services of reception and transmission of orders or execution of order.
Rights and obligations of the crypto-asset service provider and the client	
Client agreements	Any document agreed between the crypto-asset service provider and the client that set out the rights and obligations of the parties.
Consent of the client	Any communication between the crypto-asset service provider and the client or any document evidencing that the client consented to the provision of services and to the terms upon which the crypto-asset service provider will provide such services to the client.
Market abuse	
Market abuse	Records of instances where circumstances indicate that market abuse has been committed, is being committed, or is likely to be committed. Such records shall contain the identification of the persons or computer algorithms involved. For persons professionally arranging or executing transactions in crypto-assets, the records shall contain the information documenting the analysis carried out with regard to orders, transactions, and aspects of the functioning of distributed ledger technology that could constitute market

	abuse, referred to in Article 3 of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 92(2) of Regulation (EU) 2023/1114).
Safekeeping of clients' crypto-assets and funds	
Clients' crypto-assets and means of access to crypto-assets held by the crypto-asset service provider	The records enabling the crypto-asset service provider to safeguard the ownership rights of clients and to prevent the use of clients' crypto-assets for their own account, as required by Article 70(1) of Regulation (EU) 2023/1114.
Clients' funds held by a crypto-asset service provider	The records enabling the crypto-asset service provider to safeguard the ownership rights of clients and to prevent the use of clients' funds for their own account as required by Article 70(2) of Regulation (EU) 2023/1114. Any document, records, or evidence demonstrating that the crypto-asset service provider complies with its obligations under Article 70(3) of Regulation (EU) 2023/1114.
Complaints handling	
Complaints	The records kept in accordance with Article 1(2)(f) of Commission Delegated Regulation (EU) 2025/294 ²⁰² .
Conflicts of interest and personal transactions	
Conflicts of interest	The information referred to in Article 6(5) of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114.
Personal transaction	The records of a personal transaction as referred to in Article 2(4) of Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114, specifying the date and time of the transaction, the conditions, its volume, the counterparty and any authorisation or prohibition in connection with that transaction, in accordance with that Delegated Regulation.
Outsourcing	

²⁰² Commission Delegated Regulation (EU) 2025/294 of 1 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements, templates and procedures for the handling of complaints by the crypto-asset service providers (OJ L, 2025/294, 13.2.2025, ELI: http://data.europa.eu/eli/reg_del/2025/294/oj).

Outsourcing agreements	Records of the written agreements referred to in Article 73(3) of Regulation (EU) 2023/1114.
Outsourced services and activities	Records of any service or activity outsourced to a third party together, including: (a) the name, registered office, operating address, and regulatory status of the third party to which the service or activity, or any part of the service or activity, was outsourced; (b) the name, function, and contact details of the person in charge of the service or activity, or part of the service or activity, at the third party to which the service or activity, or any part of the service or activity that was outsourced; (c) the name and function of the person in charge of the service or activity, or part of the service or activity, at the crypto-asset service provider.
Custody and administration of crypto-assets on behalf of clients	
Register of positions	Records of the registers of positions referred to in Article 75(2) and (4) of Regulation (EU) 2023/1114.
Statement of positions	Records of the statement of positions referred to in Article 75(5) of Regulation 2023/1114.
Communications with clients	Records of any communication with the client referred to in Article 75(5), second subparagraph, of Regulation 2023/1114, including the response received by the client or lack thereof.
Use of other crypto-asset service providers	Where clients' crypto-assets or means of access to crypto-assets are in custody or controlled in accordance with Article 75(9) of Regulation (EU) 2023/1114: (a) records from the third party crypto-asset service provider evidencing the positions of the clients; (b) records of communications evidencing that the crypto-asset service provider complied with Article 75(9), second subparagraph, of Regulation (EU) 2023/1114.
Operation of a trading platform for crypto-assets	
Operating rules	A copy of the operating rules referred to in Article 76(1) of Regulation (EU) 2023/1114, including deficiencies detected and the measures taken to remedy them.
Assessment of suitability of the crypto-asset	Records of the assessment referred to in Article 76(2) of Regulation (EU) 2023/1114 and its outcome.
In-built anonymisation function	Records of cases where crypto-assets have an in-built anonymisation function.

Consent of the client to matched principal trading	Records of clients' consent to the crypto-asset service provider engaging in matched principal trading on the platform for crypto-assets that it operates, as referred to in Article 76(6) of Regulation (EU) 2023/1114.
Exchange of crypto-assets for funds or other crypto-assets	
Price and limits	(1) Records of the price of the crypto-assets or of the method for determining the price of the crypto-assets proposed to exchange for funds or other crypto-assets, and any applicable limits determined by the crypto-asset service provider on the amount to be exchanged, as referred to in Article 77(2) of Regulation (EU) 2023/1114. (2) Such records shall contain the following information in respect of each price, method for determining the price, and applicable limit applicable: (a) the identification of the crypto-asset; (b) whether the crypto-asset can be exchanged for funds or crypto-assets or both; (c) the price of the crypto-asset; (d) the amount of crypto-assets exchanged for another crypto-asset.
Placing of crypto-assets	
Information to clients or prospective clients	Records of the communications referred to in Article 79(1) of Regulation (EU) 2023/1114 and of the consent received from the offeror or person seeking admission to trading or any third party acting on its behalf.
Placing operations	Records of any placing operation of the crypto-asset service provider, kept in accordance with the requirement for the crypto-asset service provider to have in place a centralised procedure to identify all its placing operations as provided in Commission Delegated Regulation establishing technical standards adopted pursuant to Article 72(5) of Regulation (EU) 2023/1114.
Advice and portfolio management	
Information to clients	Records of any communication made in accordance with Article 81(2), (4) and (9) of Regulation (EU) 2023/1114.
Assessment of suitability	Records of all information collected from each client and assessed to conduct the suitability assessment referred to in Article 81(1) of Regulation (EU) 2023/1114, and all internal documents relating to such suitability assessment. Records of clients who did not provide the information required by Article 81(8) of Regulation (EU) 2023/1114.

Investment advice	Records of the time and date on which advice on crypto-assets was rendered, records of the crypto-assets that were recommended, and the suitability report provided to the client in accordance with Article 81(13) of Regulation (EU) 2023/1114.
Periodic statement for portfolio management services	Records of any periodic statement provided to the client in accordance with Article 81(14) of Regulation (EU) 2023/1114.
Inducements	1. Records of any minor non-monetary benefit received by the crypto-asset service provider in accordance with Article 81(3), second subparagraph, of Regulation (EU) 2023/1114. Such records shall contain the following information: (a) the nature of the minor non-monetary benefit and the date on which it was received; (b) the client and service or activity received; (c) how such minor non-monetary benefit complies with Article 81(3), second subparagraph, of Regulation (EU) 2023/1114. 2. Records of any inducements received by the crypto-asset service provider in accordance with Article 81(6) of Regulation (EU) 2023/1114. Such records shall contain the following information: (a) the nature, amount and date the inducement was received; (b) the client and service or activity in relation to which it was received; (c) how such inducement complies with Article 81(6), first subparagraph, of Regulation (EU) 2023/1114; (d) any communication made in accordance with Article 81(6), second subparagraph, of Regulation (EU) 2023/1114.
Transfer services	
Records to be kept by the crypto-asset service provider of the originator	Records of: (a) all instructions received; (b) all information listed in Article 14(1), (2) and (3) of Regulation (EU) 2023/1113; (c) the means of verification referred to in Article 14(6) of Regulation (EU) 2023/1113; (d) any suspension or rejection of any instruction to carry out the transfer of crypto-assets and the reason for such suspension or rejection.
Records to be kept by the crypto-asset service provider of the beneficiary	Records of: (a) all information listed in Article 14(1), (2) and (3), of Regulation (EU) 2023/1113;

	(b) the means of verification referred to in Article 16(3) of Regulation (EU) 2023/1113; (c) any return, suspension, or rejection of the transfer of crypto-assets and the reason for such return, suspension, or rejection; (d) any measures taken in accordance with Article 17(2) of Regulation (EU) 2023/1113, together with the identification of the crypto-asset service providers concerned.
Records to be kept by intermediary crypto-asset service providers	Records of: (a) all information listed in Article 14(1), (2) and (3), of Regulation (EU) 2023/1113; (b) any return, suspension, or rejection of the transfer of crypto-assets and the reason for such return, suspension, or rejection; (c) any measures taken in accordance with Article 21(2) of Regulation (EU) 2023/1113, together with the identification of the crypto-asset service providers concerned.

SECTION 2***Records of orders****Table 1***Legend for Table 2 of this Section and for Table 3 of Section 3**

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field
{CFI_CODE}	6 characters	ISO 10962 CFI code
{COUNTRYCODE_2}	2 alphanumerical characters	2 letter country code, as defined by ISO 3166-1 alpha-2 country code
{CURRENCYCODE_3}	3 alphanumerical characters	3 letter currency code, as defined by ISO 4217 currency codes
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.ddddddZ. — 'YYYY' is the year;

		— 'MM' is the month; — 'DD' is the day; — 'T' – means that the letter 'T' shall be used; — 'hh' is the hour; — 'mm' is the minute; — 'ss.ffffff' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be recorded in UTC.
{DATEFORMAT}	ISO 8601 date format	Dates shall be formatted in the following format: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — negative numbers are prefixed with '-' (minus); values are rounded and not truncated.
{DTI}	9 alphanumerical characters	Digital token identifier as defined in ISO 24165 standard
{DTI_SHORT_NAME}	n alphanumeric characters	DTI short name as registered according to the ISO 24165-2 data elements for registration of the DTI
{INTEGER-n}	Integer number of up to n digits in total	Numerical field for both positive and negative integer values.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{LEI}	20 alphanumerical characters	Legal entity identifier as defined in ISO 17442
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383
{NATIONAL_ID}	35 alphanumerical characters	The identifier is derived in accordance with Article 9 and Annex II of Delegated Regulation (EU) 2017/590

Table 2

Details of orders to be kept

Field Number	Field Name	Field description	Details on the order data to be provided to the competent authority
Section A – Identification of the relevant parties			
1	Client identification code	Code used to identify the client of the crypto-assets service provider which submitted the order. Where the client is a legal entity, the LEI code of the client or the alternative identifiers referred to in Article 14(3) shall be used. Where the client is not a legal entity, the {NATIONAL_ID} shall be used. In case of pending allocations, the flag PNAL shall be used. This field shall be 'NOAP' where the crypto-asset service provider has a direct interest to buy or sell.	{LEI} {NATIONAL_ID} {ALPHANUM-20} {PNAL} 'NOAP'
2	Investment decision within the CASP	Code used to identify the person or the algorithm within the crypto assets service provider who is taking the investment decision. Where a natural person within the crypto-asset service provider takes the investment decision the person who is responsible or has primary responsibility for the investment decision shall be identified with the {NATIONAL_ID}. Where an algorithm that automatically determines individual parameters of orders, including initiating the order or determining its timing, price or quantity, took the investment decision, the field shall be populated with a code assigned according to Article 8. This field shall be left blank where the investment decision was not made by a person or algorithm within the crypto asset service provider.	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms
3	Execution within firm	Code used to identify the person or algorithm within the crypto-asset service provider determining the conditions for the execution of the transaction resulting from the order. Where a natural person determines the conditions for the execution of the transaction, the person	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms

		shall be identified by {NATIONAL_ID}. Where an algorithm that automatically determines individual parameters of orders, including initiating the order or determining its timing, price, or quantity, is responsible for the execution of the transaction, this field shall be populated with a code assigned by the crypto asset service provider, in accordance with Article 10. Where more than one person or a combination of persons and algorithms are involved in the execution of the transaction, the crypto asset service provider shall determine the trader or algorithm primarily responsible and populate this field with the identity of that trader or algorithm.	
Section B – Trading capacity and liquidity provision			
4	Trading capacity	Indicates whether the crypto-asset service provider undertaking the transaction is carrying out matched principal trading or exchanges crypto-assets for funds. Where the order submission does not result from the crypto-asset service provider carrying out matched principal trading or exchanging crypto-assets for funds or other crypto-assets, the field shall indicate that the transaction was carried out under any other capacity.	'DEAL' – Exchange crypto-assets for funds or other crypto-assets 'MTCH' – Matched principal 'AOTC' – Any other capacity
Section C – Date and time			
5	Date and Time	The date and time for each event listed in Section G and J.	{DATE_TIME_FORMAT}
Section D – Validity period and order restrictions			
6	Validity period	Good-For-Day: the order expires at the end of the trading day on which it was entered in the order book. Good-Till-Cancelled: the order will remain active in the order book and be executable until it is actually cancelled. Good-Till-Time: the order expires at the latest at a pre-determined time within the current trading session. Good-Till-Date: the order expires at the end of a specified date.	'DAVY' – Good-For-Day 'GTCV' – Good-Till-Cancelled 'GTTV' – Good-Till-Time 'GTDV' – Good-Till-Date 'GTSV' – Good-Till-Specified Date and Time

		Good-Till-Specified Date and Time: the order expires at a specified date and time. Good After Time: the order is only active after a pre-determined time within the current trading session. Good After Date: the order is only active from the beginning of a pre-determined date. Good After Specified Date and Time: the order is only active from a pre-determined time on a pre-determined date. Immediate-Or-Cancel: an order which is executed upon its entering into the order book (for the quantity that can be executed) and which does not remain in the order book for the remaining quantity (if any) that has not been executed. Fill-Or-Kill: an order which is executed upon its entering into the order book provided that it can be fully filled: in the event the order can only be partially executed, then it is automatically rejected and cannot therefore be executed. Other: any additional indications that are unique for specific business models, trading platforms or systems.	'GATV' – Good After Time 'GADV' – Good After Date 'GASV' – Good After Specified Date and Time 'IOCV' – Immediate-Or-Cancel 'FOKV' – Fill-Or-Kill or {ALPHANUM-4} character' not already in use for the trading venue's own classification.
7	Order restriction	Good For Closing Price Crossing Session: where an order qualifies for the closing price crossing session. Valid For Auction: the order is only active and can only be executed at auction phases (which can be pre-defined by the CASP client who submitted the order, e.g. opening and/closing auctions and/or intraday auction). Valid For Continuous Trading only: the order is only active during continuous trading. Other: any additional indications that are unique for specific business models, trading platforms or systems.	'SESR' – Good For Closing Price Crossing Session 'VFAR' – Valid For Auction 'VFCR' – Valid For Continuous Trading only {ALPHANUM-4} character' not already in use for the trading venue's own classification. This field shall be populated with multiple flags separated by a comma where more than one flag is applicable.
8	Validity period and time	This field refers to the time stamp reflecting the time on which the order becomes active or it is ultimately removed from the order book:	{DATE_TIME_FORMAT}

		Good for day: the date of entry with the timestamp immediately prior to midnight; Good till time: the date of entry and the time to that specified in the order; Good till date: will be the specified date of expiry with the timestamp immediately prior to midnight; Good till specified date and time: the specified date and time of expiry; Good after time: the date of entry and the specified time at which the order becomes active; Good after date: the specified date with the timestamp immediately after midnight; Good after specified date and time: the specified date and time at which the order becomes active; Good till Cancel: the ultimate date and time the order is automatically removed by market operations; Other: timestamp for any additional validity type.	
Section E – Identification of the order			
9	Segment MIC code	Identification of the trading platform for crypto-asset where the order was submitted. Where the trading platform for crypto-asset uses segment MICs, the segment MIC shall be used. Where the trading platform for crypto-asset does not use segment MICs, the operating MIC shall be used. This field shall only be populated for orders to be executed on a trading platform for crypto-assets.	{MIC}
10	Crypto-asset identification code	Unique and unambiguous identifier of the crypto-asset.	{DTI} {ALPHANUM-20}
11	Crypto-asset classification	Taxonomy used to classify the crypto-asset or A complete and accurate CFI code shall be provided where available.	ART EMT OT {CFI_CODE}
12	Order identification	An alphanumerical code assigned by the operator of the trading platform for crypto-assets to the	{ALPHANUM-50}

	code	individual order.	
Section F – Events affecting the order			
13	New order, order cancellation	New order: submission of a new order to the CASP operating the trading platform for crypto-assets. Cancelled at the initiative of the client of the CASP: where the client decides upon its own initiative to cancel the order it has previously entered.	'NEWO' – New order 'CAME' – Cancelled at the initiative of the client of the CASP
Section G – Type of order			
14	Order type	Identifies the type of order submitted to the trading platform for crypto-asset as per the trading platform for crypto-asset specifications.	{ALPHANUM-50}
15	Order classification	Classification of the order according to two generic order types. LIMIT order: where the order is tradable; STOP order: where the order becomes tradable only upon the realisation of a pre-determined price event.	The letters 'LMTO' for limit or the letters 'STOP' for stop
Section H – Prices			
16	Limit price	The maximum price at which a buy order can trade or the minimum price at which a sell order can trade. The spread price for a strategy order, which can be negative or positive. This field shall be 'NOAP' for orders that do not have a limit price or for unpriced orders. Where the price is reported in monetary terms, the price shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency. Where the price is expressed in sub-components of that crypto-asset, the price shall nonetheless be recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} in case the price is expressed as monetary value. {DECIMAL-11/10} in case the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points 'NOAP'

17	Additional limit Price	Any other limit price which may apply to the order. This field shall be left 'NOAP' where there is no limit price. Where the price is reported in monetary terms, the price shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency. Where the price is expressed in sub-components of that crypto-asset, the price shall nonetheless be recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points 'NOAP'
18	Stop price	The price that must be reached for the order to become active. For stop orders triggered by events independent of the price of the crypto-asset, this field shall be populated with a stop price equal to zero. This field shall be 'NOAP' where not relevant. Where the price is reported in monetary terms, the shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency. Where the price is expressed in sub-components of that crypto-asset, the price shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points 'NOAP'
19	Pegged limit price	The maximum price at which a pegged order to buy can trade or the minimum price at which a pegged order to sell can trade. This field shall be 'NOAP' if not relevant. Where the price is reported in monetary terms, the price shall be provided in the major currency unit. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency. Where the price is expressed in sub-components of that crypto-asset, the price shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset.	{DECIMAL-18/13} where the price is expressed as a monetary value. {DECIMAL-11/10} where the price is expressed as a percentage or yield. {DECIMAL-18/17} in case the price is expressed as basis points 'NOAP'

20	Transaction price	Traded price of the transaction excluding, where applicable, commission, other fees and accrued interest. A price that is recorded in monetary terms shall be provided in the major currency unit. Where a price is not applicable, the field shall be populated with the value 'NOAP'. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency.	{DECIMAL-18/13} where the price is expressed as a monetary value. 'NOAP'
21	Price currency	Currency in which the trading price for the crypto-asset related to the order is expressed (applicable where the price is expressed as monetary value). Where the crypto-asset is traded in electronic money/e-money token, the Digital Token Identifier or the alternative identifier referred to in Article 15 shall be used. Where the price of the crypto-asset is expressed in monetary terms and it is expressed in a currency pair, the currency pair in which the price for the crypto-asset related to the order is expressed shall be reported. The first currency code shall be that of the base currency and the second currency code shall be that of the quote currency. The quote currency determines the price of one unit of the base currency. The ISO currency code and the DTI short name as registered according to the ISO 24165-2 data elements for registration of the DTI or alternative identifier shall be used to represent the fiat currency and the crypto-asset, respectively, in the currency pair.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20} {CURRENCYCODE_3} should be used for fiat currencies in a currency pair {DTI_SHORT_NAME} should be used for crypto assets in a currency pair 'NOAP'
22	Price notation	Indicates whether the price is expressed in monetary value, in percentage, in yield, or in basis points.	'MONE' – Monetary value 'PERC' – Percentage 'YIEL' – Yield 'BAPO' – Basis points
Section I – Order instructions			
23	Buy-sell indicator	To show whether the order is to buy or sell.	'BUYI' – buy 'SELL' – sell
24	Order status	To identify orders that are active/inactive/suspended:	'ACTI' – active

		Active – non-quote orders that are tradable. Inactive – non-quote orders that are not tradable.	or 'INAC' – inactive
25	Quantity notation	Indicates whether the quantity reported is expressed in number of units, as a nominal value, or as a monetary value, or crypto-assets units.	'UNIT' – Number of units 'NOML' – Nominal value 'MONE' – Monetary value 'CRYP' – Crypto-asset
26	Quantity currency	Currency in which the quantity is expressed. The currency shall refer to the crypto-asset units, even where the transaction is denominated in sub-components of that crypto-asset. This field only needs to be populated where the quantity is expressed as a nominal or monetary value or crypto-assets units.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20}
27	Initial quantity	The number of units of the crypto-asset in the order. Where the order pertains to a fraction of a crypto-asset, indicate the quantity in decimal notation of the unit. The nominal or monetary value of the crypto-asset.	{DECIMAL-18/17} in case the quantity is expressed as number of units {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value
28	Remaining quantity	The total quantity that remains in the order book after a partial execution or in the case of any other event affecting the order. On a partial fill order event, this shall be the total remaining volume after that partial execution. On an order entry, this shall equal the initial quantity.	{DECIMAL-18/17} in case the quantity is expressed as a number of units {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value
29	Traded quantity	Where there is a partial or full execution, this field shall be populated with the executed quantity.	{DECIMAL-18/17} in case the quantity is expressed as a number of units {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value
30	Minimum Acceptable Quantity (MAQ)	The minimum acceptable quantity for an order to be filled, which can consist of multiple partial executions and is normally only for non-persistent order types. This field shall be 'NOAP' where not relevant.	{DECIMAL-18/17} in case the quantity is expressed as a number of units {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value

			'NOAP'
31	Minimum executable size (MES)	The minimum execution size of any individual potential execution. This field shall be left blank where not relevant.	{DECIMAL-18/17} in case the quantity is expressed as a number of units {DECIMAL-18/5} where the quantity is expressed as monetary or nominal value
32	MES first execution only	Specifies whether the MES is relevant only for the first execution. This field can be left blank where Field 29 is left blank.	'true' 'false'
33	Passive only indicator	Indicates whether the order is submitted to the trading platform for crypto-asset with a characteristic/flag, such that the order shall not immediately be executed against any contra visible orders.	'true' 'false'
34	Passive or aggressive indicator	On partial fill and fill order events, indicates whether the order was already resting on the order book and providing liquidity (passive) or the order initiated the trade and thus took liquidity (aggressive). This field shall be left blank where not relevant	'PASV' – passive or 'AGRE' – aggressive.
35	Self-Execution Prevention	Indicates whether the order has been entered with self-execution prevention criteria, so that it would not execute with an order on the opposite side of the book entered by the same member or participant.	'true' 'false'
36	Trading platform for crypto-asset transaction identification code	For orders executed on trading platforms for crypto-assets, alphanumerical code assigned by the trading platform for crypto-assets to the transaction pursuant to Article 14 of Commission Delegated Regulation (EU) 2025/416 ²⁰³ . The code shall be unique, consistent, and persistent per ISO10383 segment MIC and per trading day. The components of the transaction identification code shall not disclose the identity of the counterparties to the transaction for which the code is maintained. For transactions executed by means of transmission on behalf of clients to an entity providing crypto-asset services outside of the Union, this information shall be recorded where retrievable.	{ALPHANUM-52}

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Section J – Indicative auction price and volume			
37	Indicative auction price	The price at which each auction is due to uncross in respect to the crypto-asset for which one or more orders have been placed.	{DECIMAL-18/5} in case the price is expressed as monetary or nominal value. Where price reported in monetary terms, it shall be provided in the major currency unit. {DECIMAL-11/10} in case the price is expressed as a percentage or yield
38	Indicative auction volume	The volume (number of units of crypto-asset) that can be executed at the indicative auction price in Field 50 where the auction ended at that precise moment of time.	{DECIMAL-18/17} in case the quantity is expressed as number of units {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value
Section K – Order transmission			
39	Transmitting crypto-asset service provider	In case of transmission of an order under Article 11, the LEI code of the transmitting crypto-asset service provider.	{LEI}
40	Transmission of an order indicator	'true' shall be populated by the transmitting firm within the transmitting firm's report where the conditions for transmission specified in Article 11 were not satisfied 'false' – in all other circumstances	'true' 'false'
Section L – Country of residence of the client			
41	Identification of the country of residence	Shall be populated where a client is a resident of a country other than the one of its nationality, as described in Article 9(5).	{COUNTRYCODE_2} 'NOAP'

SECTION 3***Records of transactions***

For the legend, please refer to Section 2, Table 1.

Table 3

Details of transactions to be kept

Field no	Field	Content to be recorded	Details on transaction data to be provided to the competent authority
1	Transaction status	Indication as to whether the transaction is new or a cancellation.	'NEWT' – New 'CANC' – Cancellation
2	Transaction Record Number	Identification number that is unique to the executing firm for each record.	{ALPHANUM-52}
3	Trading platform for crypto-asset transaction identification code	This is a number generated by the trading platform for crypto-assets and disseminated to both the buying and the selling parties in accordance with Article 14 of Delegated Regulation (EU) 2025/416 supplementing Regulation (EU) 2023/1114. Where relevant, the transaction hash or other identification alphanumerical string which is automatically generated on the DLT that enables to uniquely identify a specific transaction.	{ALPHANUM-52}
4	Executing entity identification code	Code used to identify the entity executing the transaction.	{LEI} {ALPHANUM-20}
5	CASP covered by Regulation (EU) 2023/1114.	Indicates whether the entity identified in Field 4 is a crypto-asset service provider to which Regulation (EU) 2023/1114 applies.	'true' – yes 'false' – no
6	Buyer identification code	Code used to identify the acquirer of the crypto-asset. Where the buyer is a legal entity, the LEI code of the acquirer or the alternative identifiers referred to in Article 14(3) shall be used. Where the buyer is a natural person, the identifier specified in Article 9. Where the order was transmitted for execution on behalf of clients to a firm performing crypto-asset services outside of the Union, the MIC code of the platform or the LEI or	{LEI} {ALPHANUM-20} {MIC} {NATIONAL_ID} 'INTC'

		equivalent identifiers referred to in Article 14 of the firm shall be used. Where the crypto-asset service provider executes the transaction on a trading platform located in a third country, the LEI of the buyer, the alternative identifier referred to in Article 14(3) or the National ID shall be recorded. 'INTC' shall be used to designate an aggregate client account within the crypto-asset service provider to report a transfer into or out of that account with an associated allocation to the individual client(s) out of or into that account respectively.	
7	Country of the branch of the crypto-asset service provider for the buyer	Where the buyer is a client, this field shall identify the country of the branch that received the order from the client or made an investment decision for a client in accordance with a discretionary mandate given to it by the client as required by Article 16. Where this activity was not conducted by a branch, this field should be populated with the country code of the home Member State of the crypto-asset service provider or the country code of the Member State where the crypto-asset service provider has established its registered office.	{COUNTRYCODE_2}
8	Buyer – first name(s)	Full first name(s) of the buyer. In case of more than one first name, all names shall be included in this field, separated by a comma.	{ALPHANUM-140}
9	Buyer – surname(s)	Full surname(s) of the buyer. In case of more than one surname, all surnames shall be included in this field, separated by a comma.	{ALPHANUM-140}
10	Buyer – date of birth	Date of birth of the buyer.	{DATEFORMAT}
11	Buyer decision maker code	Code used to identify the person who makes the decision to acquire the crypto-asset. Where the decision is made by a crypto-asset service provider, this field shall be populated with the identity of the crypto-asset service provider rather than of the individual making the investment decision. Where the decision-maker is a legal entity, the LEI code or the alternative identifiers referred to in Article 14(3) of the decision-maker shall be used. Where the decision-maker is not a legal entity, the identifier specified in Article 9 shall be used.	{LEI} {ALPHANUM-20} {NATIONAL_ID}
12	Buy decision maker – First	Full first name(s) of the decision-maker for the buyer. In case of more than one first name, all	{ALPHANUM-140}

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	Name(s)	names shall be included in this field, separated by a comma.	
13	Buy decision maker – Surname(s)	Full surname(s) of the decision-maker for the buyer. In case of more than one surname, all surnames shall be included in this field, separated by a comma.	{ALPHANUM-140}
14	Buy decision maker – Date of birth	Date of birth of the decision-maker for the buyer.	{DATEFORMAT}
15	Seller identification code	Code used to identify the disposer of the crypto-asset. Where the seller is a legal entity, the LEI code of the disposer or the alternative identifiers referred to in Article 14(3) shall be used. Where the seller is not a legal entity, the identifier specified in Article 9 shall be used. Where the order was transmitted for execution on behalf of the client to a crypto-asset service provider providing services outside of the Union, the MIC code of the platform or the LEI of that crypto-asset service provider shall be used. Where the crypto-asset service provider executes the transaction on a trading platform located in a third country, the LEI, the alternative identifier referred to in Article 14(3) or the National ID of the seller shall be provided. 'INTC' shall be used to designate an aggregate client account within the CASP to record a transfer into or out of that account with an associated allocation to the individual client(s) out of or into that account respectively.	{LEI} {ALPHANUM-20} {MIC} {NATIONAL_ID} 'INTC'
16	Country of the branch for the seller	Where the seller is a client, this field shall identify the country of the branch that received the order from the client or made an investment decision for a client in accordance with a discretionary mandate given to it by the client as required by Article 16. Where this activity was not conducted by a branch, this field shall be populated with the country code of the home Member State of the crypto-asset service provider or the country code of the country where the crypto-asset service provider has established its head office or registered office (in the case of third-country firms).	{COUNTRYCODE_2}
17	Seller – first name(s)	Full first name(s) of the seller. In case of more than one first name, all names shall be included in this field, separated by a comma.	{ALPHANUM-140}
18	Seller – surname(s)	Full surname(s) of the seller. In case of more than one surname, all surnames shall be included	{ALPHANUM-140}

		in this field, separated by a comma.	
19	Seller – date of birth	Date of birth of the seller.	{DATEFORMAT}
20	Seller decision maker code	Code used to identify the person who makes the decision to sell the crypto-asset. Where the decision is made by a crypto-asset service provider, this field shall be populated with the identity of the CASP rather than of the individual making the investment decision. Where the decision maker is a legal entity, the LEI code or the alternative identifier referred to in Article 14(3) of the decision maker shall be used. Where the decision maker is a non-legal entity, the identifier specified in Article 9 shall be used.	{LEI} {ALPHANUM-20} {NATIONAL_ID}
21	Sell decision maker – First Name(s)	Full first name(s) of the decision maker for the seller. In case of more than one first name, all names shall be included in this field, separated by a comma.	{ALPHANUM-140}
22	Sell decision maker – Surname(s)	Full surname(s) of the decision maker for the seller. In case of more than one surname, all surnames shall be included in this field, separated by a comma.	{ALPHANUM-140}
23	Sell decision maker – Date of birth	Date of birth of the decision maker for the seller.	{DATEFORMAT}
24	Transmission of order indicator	'true' shall be populated by the transmitting firm within the transmitting firm's report where the conditions for transmission specified in Article 11 were not satisfied 'false' – in all other circumstances	'true' 'false'
25	Transmitting firm identification code for the buyer	Code used to identify the firm transmitting the order. This shall be populated by the receiving firm within the receiving firm's report with the identification code provided by the transmitting firm.	{LEI} {ALPHANUM-20}
26	Transmitting firm identification code for the seller	Code used to identify the firm transmitting the order. This shall be populated by the receiving firm within the receiving firm's report with the identification code provided by the transmitting firm	{LEI} {ALPHANUM-20}
27	Trading date time	Date and time when the transaction was executed. For transactions not executed on a trading venue, the date and time shall be when the parties agree to the content of the following fields: quantity, price, currencies in Fields 31, 34 and 44, instrument identification code, instrument classification and underlying instrument code,	{DATE_TIME_FORMAT}

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		where applicable. For transactions not executed on a trading venue, the time recorded shall be at least to the nearest second. Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the conditions for transmission set out in Article 11 were not satisfied, this shall be the date and time of the transaction rather than the time of the order transmission.	
28	Trading capacity	Indicates whether the CASP undertaking the transaction is carrying out matched principal trading, or exchange of crypto-assets for funds. Where the transaction does not result from the executing firm carrying out matched principal trading or through exchange of crypto-assets for funds, the field shall indicate that the transaction was carried out under any other capacity.	'DEAL' – Exchange of crypto-assets for funds or other crypto-assets 'MTCH' – Matched principal 'AOTC' – Any other capacity
29	Quantity	The number of units of the crypto-assets or the monetary value of the crypto asset. Where the price is expressed in sub-components of that crypto-asset, it shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset. The information reported in this field shall be consistent with the values provided in Fields 31 and 32.	{DECIMAL-18/17} in case the quantity is expressed as number of units {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value
30	Quantity currency	Currency in which the quantity is expressed. Only applicable where the quantity is expressed as nominal or monetary value. The quantity shall refer to the crypto-asset units, even where the transaction is denominated in sub-components of that crypto-asset. Where the crypto-asset is traded in electronic money/e-money token, the Digital Token Identifier code or the alternative identifier referred to in Article 15 shall be used.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20}
31	Price	Traded price of the transaction excluding, where applicable, commission, any other fee and accrued interest. Where the crypto-asset is traded based on a currency pair, the price shall express the quantity of the quote currency for one unit of the base currency.	{DECIMAL-18/13} in case the price is expressed as monetary value {DECIMAL-11/10} in case the price is expressed as percentage or yield

		Where the price is expressed in sub-components of that crypto-asset, the price shall be nonetheless recorded in decimal notation of the price expressed in units of that crypto-asset. Where the price is recorded in monetary terms, the price shall be provided in the major currency unit. Where price is not applicable, the value shall be 'NOAP'. The information recorded in this field shall be consistent with the values provided in Field 30.	{DECIMAL-18/17} in case the price is expressed as basis points 'NOAP' in case the price is not applicable
32	Price Currency	Currency in which the price is expressed (applicable where the price is expressed as a monetary value). Where the price of the crypto-asset is expressed in monetary terms and is expressed in a currency pair, the currency pair in which the price for the crypto-asset related to the order is expressed shall be reported. The first currency code shall be that of the base currency and the second currency code shall be that of the quote currency. The quote currency determines the price of one unit of the base currency. The ISO currency code and the DTI short name as registered in accordance with the ISO 24165-2 data elements for registration of the DTI or the alternative identifier referred to in Article 15 shall be used to represent the fiat currency and the crypto asset respectively in the currency pair.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20} {CURRENCYCODE_3} should be used for fiat currencies in a currency pair {DTI_SHORT_NAME} should be used for crypto assets in a currency pair 'NOAP'
33	Trading platform for crypto-asset	Identification of the trading platform for crypto-asset where the transaction was executed. Use the ISO 10383 segment MIC for transactions executed on a trading platform for crypto-assets. Where the segment MIC does not exist, use the operating MIC. Use MIC code 'XOFF' for crypto-assets admitted to trading, or traded on a trading platform for crypto-assets or for which a request for admission was made, where the transaction on that crypto-asset was not executed on a trading platform for crypto-assets. Use MIC code 'XXXX' for crypto-assets that are not admitted to trading or traded on a trading platform for crypto-assets, or for which no request for admission has been made.	{MIC}
34	Country of the branch membership	Code used to identify the country of a branch of the crypto-asset service provider whose trading platform for crypto-asset membership was used to execute the transaction.	{COUNTRYCODE_2}

		Where a branch's trading platform for crypto-asset membership was not used, this field shall be populated with the country code of the home Member State of the crypto-asset service provider or the country code of the country where the firm has established its head office or registered office (in the case of third-country firms). This field shall only be populated for the market side of a transaction executed on a trading platform for crypto-assets.	
35	Up-front payment	Monetary value of any up-front payment received or paid by the seller. Where the seller receives the up-front payment, the value populated shall be positive. Where the seller pays the up-front payment, the value populated shall be negative.	{DECIMAL-18/5}
36	Up-front payment currency	Currency of the up-front payment.	{CURRENCYCODE_3} {DTI} {ALPHANUM-20}
37	Complex trade component id	Identifier, internal to the crypto-asset service provider, to identify all the transaction records related to the same execution of a combination of crypto-assets. The code must be unique at the level of the firm for the group of transaction records related to the execution.	{ALPHANUM-35}
38	Crypto-asset identification code	Code used to identify the crypto-asset. This field applies to crypto-assets for which a request for admission to trading has been made, that are admitted to trading or traded on a trading platform for crypto-assets.	{DTI} {ALPHANUM-20}
39	Crypto-asset full name	Full name of the crypto-asset.	{ALPHANUM-350}
40	Crypto-asset classification	Taxonomy used to classify the crypto-asset. or A complete and accurate CFI code shall be provided where available.	ART EMT OT {CFI_CODE}
41	Investment decision within the crypto-asset service provider	Code used to identify the person or algorithm within the crypto-asset service provider taking the investment decision. The code shall remain the same for each set of code or trading strategy that constitutes the algorithm and shall be used consistently when referring to the	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms

		algorithm or version of the algorithm once assigned to it. For natural persons, the identifier specified in Article 9 shall be used where the investment decision was made by an algorithm that automatically determines individual parameters of orders, including the decision to initiate the order or determining its timing, price or quantity, the field shall be populated as set out in Article 8. This field only applies for investment decision within the firm. Where the transaction is for a transmitted order that has met the conditions for transmission set out in Article 11, this field shall be populated by the receiving firm within the receiving firm's record using the information received from the transmitting firm.	
42	Country of the branch responsible for the person making the investment decision	Code used to identify the country of the branch of the crypto-asset service provider for the person taking the investment decision, as set out in Article 16. Where the person taking the investment decision was not supervised by a branch, this field shall be populated with the country code of the home Member State of the crypto-asset service provider or the country code of the Member State where the crypto-asset service provider has established its registered office. Where the transaction is for a transmitted order that has met the conditions for transmission set out in Article 11, this field shall be populated by the receiving firm within the receiving firm's record using the information received from the transmitting firm. This field is not applicable where the investment decision was made by an algorithm that automatically determines individual parameters of orders, including as whether to initiate the order or determining its timing, price, or quantity.	{COUNTRYCODE_2}
43	Execution within firm	Code used to identify the person or algorithm that automatically determines individual parameters within the crypto-asset service provider for the execution of orders, including the decision to initiate the order or determining its timing, price, or quantity. For natural persons, the identifier specified in Article 9 shall be used. Where the execution was made by an algorithm that automatically determines individual parameters of orders, including the decision to initiate the order or determining its timing, price, or quantity, the field shall be populated as set out in Article 8.	{NATIONAL_ID} – Natural persons {ALPHANUM-50} – Algorithms CLIENT – Client

44	Country of the branch supervising the person determining the conditions for execution	Code used to identify the country of the branch of the crypto-asset service provider for the person determining the execution of the transaction, as set out in Article 16. Where the person responsible was not supervised by a branch, this field shall be populated with the country code of the home Member State of the crypto-asset service provider, or the country code of the country where the crypto-asset service provider has established its registered office. This field is not applicable where the execution was made by an algorithm that automatically determines individual parameters of orders, including the decision to initiate the order, or determining its timing, price or quantity.	{COUNTRYCODE_2}
45	Short selling indicator	Designation to identify any sale of a crypto-asset which the seller does not own at the time of entering into the agreement to sell, including such a sale where at the time of entering into the agreement to sell the seller has borrowed or agreed to borrow the share or debt instrument for delivery at settlement.	'true' 'false'

SECTION 4**On-chain data***Table 4***Details of on-chain data to be kept**

Field no	Field	Content to be recorded	Details to be provided to the competent authority
1	Transaction hash	Identifier enabling the unique identification of a specific transaction occurring on the network.	{ALPHANUM-140}
2	Wallet addresses	Code uniquely identifying the wallet, belonging to the buyer/seller, to which the crypto-asset is transferred.	{ALPHANUM-140}
3	Smart Contract Addresses	Code uniquely identifying the smart contract address.	{ALPHANUM-140}

4	Timestamp	Timestamp of the creation of the block.	{DATE_TIME_FORMAT}
5	Quantity/ Current Total Supply	Ratio between the transferred quantity and the current floating amount of the asset.	
6	Token ID	Digital Token Identifier	{DTI}
7	Network fee	Fees which are requested to cover the costs for the creation of a new block.	
8	Fee limit	This is the maximum amount of 'network fees' that an on-chain user is willing to pay for the executions of a specific transaction.	
9	Data size	This field is connected to Field 8. On-chain transaction can contain 'attachments' in a specific <i>data</i> field that affect the 'network fees' required to process the transaction.	
10	To	The unique identifiers for buyer and seller are usually generated by the DLT protocol on the basis of the buyer/seller wallet addresses.	{ALPHANUM-140}
11	From	The unique identifier for seller usually generated by the DLT protocol on the basis of the seller wallet addresses.	{ALPHANUM-140}
12	Currency	Currency code	{CURRENCYCODE_3} {DTI}
13	Transaction Record Number	Identification number reported in Field 2 of Section 3 that is unique to the executing firm for each record to ensure that a link can be made between the on-chain report and the off-chain one.	{ALPHANUM-140}

APPENDIX 24: COMMISSION DELEGATED REGULATION (EU) 2025/1141**of 27 February 2025****supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council as regards regulatory technical standards specifying the requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁰⁴, and in particular Article 32(5), third subparagraph, thereof,

Whereas:

- (1) Pursuant to Article 32(1) of Regulation (EU) 2023/1114, issuers of asset-referenced tokens are to implement and maintain effective policies and procedures to identify, prevent, manage and disclose conflicts of interest between themselves and certain categories of persons. Where implementing and maintaining the policies and procedures required pursuant to Article 32(1) of Regulation (EU) 2023/1114, issuers of asset-referenced tokens should take into account the principle of proportionality with a view to ensuring that the policies and procedures take into account their size, internal organisation, business model, nature, scale and complexity of their activities, are consistent with, where applicable, group policies and sufficient to effectively achieve the objectives of that Article.
- (2) Conflicts of interest come from a broad range of situations, relationships and affiliations as the interests of the issuer of asset-referenced tokens, its owners, its staff, management body, stakeholders, entities belonging to the same group as the issuer of asset-referenced tokens and other stakeholders may differ when issuing asset-referenced tokens, making them available to the public and managing them. When deciding what kind of situations and circumstances should be covered by their conflicts of interest policies and procedures, issuers of asset-referenced tokens should take into consideration all situations which may influence or affect or may be perceived to influence or affect, the ability of the issuer of asset-referenced tokens or any person connected to the issuer of asset-referenced tokens to take impartial and objective decisions.
- (3) Ensuring the sound governance and management of issuers of asset-referenced tokens is fundamental for their functioning and to ensure trust in this segment of the financial market. For those reasons, the conflict of interest policies and procedures should specifically cover those conflicts that may impede the ability of members of the management body to take objective and impartial decisions that aim to be in the best interests of the issuer of asset-referenced tokens, but also in the interests of the holders of asset-referenced tokens.
- (4) The reserve of assets is a key element of asset-referenced tokens, and its sound management contributes to the protection of holders of asset-referenced tokens. When identifying, preventing, managing and

²⁰⁴ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

disclosing conflicts of interest, issuers of asset-referenced tokens should take into account the potential conflicts of interest arising from the management and investment of the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114 and the policies and procedures of the issuers of asset-referenced tokens should cover those aspects. Similarly, issuers of asset-referenced tokens should take into account the potential conflicts of interest with third parties that provide services related to the operating, the investment or the custody of the reserve assets and, where applicable, the distribution of the asset-referenced tokens to the public. For the same reason, issuers of asset-referenced tokens should establish, implement and maintain arrangements to ensure that the third party, that provides one of the functions as referred in Article 34(5), point (h) of Regulation (EU) 2023/1114 acts in a manner consistent with their conflicts of interest policies and procedures.

- (5) In their conflict of interest policies and procedures under Article 32(1) of Regulation (EU) 2023/1114, issuers of asset-referenced tokens should take into consideration the actual and potential conflicts of interest which affect or potentially affect the interests of holders of asset-referenced tokens as well as the interests of the issuer of asset-referenced tokens, including conflicts of interest which may affect its performance and situation and thus, indirectly, also the interests of holders and prospective holders of asset-referenced tokens.
- (6) In order to ensure that the interests of the holders, prospective holders and issuers of asset-referenced tokens are sufficiently protected, the issuer of asset-referenced tokens should assess and evaluate any actual and potential conflicts of interests and establish and implement appropriate measures to prevent or mitigate them at the earliest stage possible.
- (7) Transactions that are exchanges of asset-referenced tokens for funds or other crypto assets including redemption of asset-referenced tokens where the issuer of the asset-referenced token is one of the parties of the transaction, carry a heightened risk of conflicts of interest and therefore should be carefully assessed as to whether they can be detrimental to the issuer of the asset-referenced token, where the transactions are carried out on behalf of persons directly or indirectly connected to the issuer of the asset-referenced token itself.
- (8) Similarly, as the incentives foreseen in the remuneration procedures, policies and arrangements may give rise to conflicts of interest, they should be monitored to prevent any distortive application, which would be detrimental to the issuer or the holders of asset-referenced tokens.
- (9) In order to prevent conflict of interests detrimental to the issuer of asset-referenced tokens, the policies and procedures under Article 32(1) of Regulation (EU) 2023/1114 should ensure the careful monitoring of situations where persons connected to issuers of asset-referenced tokens have a personal, professional or political relationship with another person that has interests conflicting with those of the issuer. Such relationships have the potential to influence objectivity or judgement of issuers of asset-referenced tokens and their connected persons. Personal relationships should include those between relatives by blood or marriage, or social relationships not limited to a formal partnership or marriage. Political relationships should include memberships of political parties, or relationships with government or other public officials. Professional relationships should consist in relationships in a professional setting, such as at work or in a business context.
- (10) To ensure trust in the issuer of asset-referenced token as well as to protect that issuer from reputational damage or legal risks, in circumstances where risks of conflicts of interest are particularly significant and cannot be appropriately prevented or managed through the adopted policies and procedures including internal systems and controls, other additional specific measures should be decided on and put in place to prevent or manage the relevant conflicts of interest.

- (11) For the purpose of ensuring at all time their appropriate implementation, maintenance and review, the conflict of interest policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114, should ensure that there are sufficient resources available for the management of the conflicts of interest and that human resources managing the conflicts of interest at the issuer of asset referenced tokens are independent from the business functions of the issuer. Such dedicated human resources should also have the necessary skills, knowledge and expertise. The person responsible for the management of conflicts of interest should be able to access and report directly to the management body in its management function and, where applicable, in its supervisory function. To ensure efficient allocation and management of resources dedicated to the management of conflicts of interest, the policies and procedures should foresee that the person responsible for the management of conflicts of interest is able to commit sufficient time to this role and that the person has available sufficient resources at all times for an appropriate implementation, application, monitoring and review of those policies and procedures.
- (12) To ensure that holders and prospective holders of asset-referenced tokens can take an informed decision about the asset-referenced-tokens, issuers of asset-referenced tokens should keep the information disclosed to the holder of asset-referenced tokens in accordance with Article 32(3) of Regulation (EU) 2023/1114 up to date and provide a description of the identified conflicts of interest and the measures taken to manage or prevent conflicts of interest.
- (13) In order to make clear to holders of asset-referenced tokens in what capacity or capacities the issuer of asset-referenced tokens is acting, especially as it may often be operating in close cooperation with affiliated entities or entities of the same group, the information referred to in Article 32(3) of Regulation (EU) 2023/1114 should include a sufficiently detailed, specific and clear description of the situations which give or may give rise to conflicts of interest, including the role and capacity in which the issuer of asset-referenced tokens is acting and whether the issuer of asset-referenced tokens is part of a group comprising also crypto asset service providers.
- (14) For the same reason, as well as to ensure appropriate investor protection, holders and prospective holders of asset-referenced tokens should have access to the information referred to in Article 32(3) of Regulation (EU) 2023/1114 in a language with which they are familiar. Therefore, issuers of asset-referenced tokens should make such information available in an official language of the home Member State as defined in Article 3(1), point (33)(d), of Regulation (EU) 2023/1114 and in a language which is customary in the sphere of international finance. At the time of adoption of this Regulation, English is the customary language in the sphere of international finance but that could evolve in the future.
- (15) The processing of personal data, including information collected for the purposes of the conflict of interest policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114, by issuers of asset-referenced tokens should be carried out in compliance with the right to protection of personal data of the persons concerned, as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must comply with Regulation (EU) 2016/679 of the European Parliament and of the Council²⁰⁵.
- (16) The conflict of interest policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 as further specified in the regulatory technical standards set out in this Regulation should provide for the communication of personal data when necessary and proportionate to ensure the adequate identification, prevention, management and disclosure of conflicts of interest potentially detrimental to the holders of asset-referenced tokens or to the issuers of asset-referenced tokens, taking into account the fundamental

²⁰⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

rights to privacy and to the protection of personal data of the connected persons. In line with the principle of data minimisation as laid down in Regulation (EU) 2016/679, the issuers of asset-referenced tokens should specify which categories of personal data they will process to identify, prevent and manage conflicts of interest in their policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114, in a way appropriate to their size and internal organisation, to the group where applicable, their business model, suitable for the nature, scale and complexity of their activities. The regulatory technical standards set out in this Regulation specify the criteria to identify categories of personal data that are necessary and proportionate to ensure the adequate identification, prevention, management and disclosure of conflicts of interest potentially detrimental to the holders or issuers of asset-referenced tokens, having regard to the risks to the fundamental rights to privacy and to the protection of personal data of the persons referred to in Article 32(1), points (a) to (d) and point (f), of Regulation (EU) 2023/1114.

- (17) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (18) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council²⁰⁶,
- (19) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁰⁷ and delivered an opinion on 17 July 2024,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'connected person' means any of the persons referred to in Article 32(1), points (a) to (d) and point (f), of Regulation (EU) 2023/1114;
- (b) 'group' means a group as defined in Article 2(11) of Directive 2013/34/EU of the European Parliament and of the Council²⁰⁸.

Article 2

²⁰⁶ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

²⁰⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

²⁰⁸ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

Conflicts of interest potentially detrimental to the issuer of asset-referenced tokens

1. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 to identify, prevent, manage and disclose conflicts of interests potentially detrimental to the issuer of asset-referenced tokens shall specify the circumstances which are capable of directly or indirectly affecting the objectivity and impartiality of the connected persons in exercising their duties and responsibilities. Such policies and procedures shall take into account situations or relationships where a connected person:
 - (a) has an economic interest in a person, body or entity with interests conflicting with those of the issuer of asset-referenced tokens;
 - (b) holds responsibilities within a person, body or entity with interests conflicting with those of the issuer of asset-referenced tokens;
 - (c) is hierarchically supervised by a person with interests conflicting with those of the issuer or the holders of asset-referenced tokens;
 - (d) has a relationship of a personal, professional or political nature with a person, body or entity that has interests conflicting with those of the issuer of asset-referenced tokens or has had such a relationship within the last 3 years from when the assessment is made;
 - (e) carries out activities in competition with those of the issuer of asset referenced tokens, including those as a consultant, adviser, delegatee, outsourcee, third-party service provider, subcontractor or other supplier of a person, body or entity conducting the same business as the issuer of asset-referenced tokens.
2. With regard to the scenarios set out in paragraph 1, issuers of asset-referenced tokens shall take into account whether those persons, bodies or entities:
 - (a) are likely to make a financial gain, or avoid a financial loss, at the expense of the issuer of asset-referenced tokens;
 - (b) have an interest in the outcome of an activity carried out or the effect resulting from a decision taken by the issuer of asset-referenced tokens and that interest is conflicting with those of the issuer of asset-referenced token.
3. With regard to the identification of the economic interest referred in paragraph 1, point (a), issuers of asset-referenced tokens shall take into account situations where the connected person who is a member of the management body or an employee of the issuer:
 - (a) holds ownership rights and tokens (including governance tokens), or membership in that person, body or entity;
 - (b) holds any type of debt with that person, body or entity;
 - (c) has any form of contractual arrangements related to the activities regulated under Regulation (EU) 2023/1114 with that person, body or entity.
4. Conflict of interests policies and procedures shall ensure that transactions consisting in the exchange of asset-referenced tokens issued by the issuer of asset-referenced tokens for funds or other crypto assets, including redemption of asset-referenced tokens, are subject to close scrutiny and monitoring with regard to the conditions in which they are concluded where the issuer is one of the parties of the transaction and the transaction is carried out on behalf of any of the following persons:

- (a) a member of the management body of the issuer or an employee who can negotiate or sign contracts on behalf of the issuer;
- (b) a party related to a person referred to in point (a) as follows:
 - (i) a spouse, registered partner, child or parent;
 - (ii) any relative who has shared the same household with that person for at least a cumulative time period of one year within the previous 5 years from the date of the transaction;
 - (iii) a commercial entity, in which a person referred to in point (a) or points (b)(i) and (b)(ii) has a qualifying holding of 10 % or more of capital or of voting rights, or in which those persons are key function holders as defined in Article 3(1)(9) of Directive 2013/36/EU of the European Parliament and of the Council²⁰⁹, hold senior management positions or are members of the management body;
- (c) a person in respect of whom the persons referred to in points (a) or (b) have direct or indirect material interest as regards the outcome or the conditions of the transaction, other than obtaining a fee or commission for the execution of the transaction.

Article 3

Conflicts of interest potentially detrimental to the holders of asset-referenced tokens

1. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 to identify, prevent, manage and disclose conflicts of interest potentially detrimental to the holders of asset-referenced tokens shall address conflicts of interest that arise in the course of issuing, processing and redeeming asset-referenced tokens or of investing or managing the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114, and shall cover any of the following situations:
 - (a) a connected person is likely to make a financial gain, avoid a financial loss, or receive another kind of benefit, to the detriment of the holder of asset-referenced tokens;
 - (b) a connected person has an interest in the outcome of an activity carried out to the benefit of the holder of asset-referenced tokens, including the redemption of the token, which is distinct from the interest of the holder of asset-referenced tokens.
2. When identifying the types of conflicts of interest that arise in the course of the activities referred to in paragraph 1, issuers of asset-referenced tokens shall assess whether they or a member of their management body or one of their employees receive or will receive from a person other than the holder of asset-referenced tokens an inducement in relation to that activity in the form of monetary or non-monetary benefit or services in a way that may damage the interest of the holder of asset-referenced tokens.

Article 4

Policies and procedures

²⁰⁹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>).

1. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall be set out in writing and shall reflect the size, complexity and nature of the asset-referenced token and the range of activities carried out by the issuer of asset-referenced tokens and the group to which it belongs.
2. The management body of the issuer of asset-referenced tokens shall be responsible for the definition, adoption and implementation of these policies and procedures. It shall periodically identify and address any deficiencies in the effectiveness of those policies and procedures.
3. Issuers of asset-referenced tokens shall establish effective internal communication channels to inform and provide ongoing access to employees and members of the management body of their conflict of interest policies and procedures and provide appropriate updated trainings on those conflict of interest policies and procedures.

Issuers of assets-referenced tokens shall establish effective external communication channels to inform third parties of their conflict of interest policies and procedures.

4. Where the issuer of asset-referenced tokens is a member of a group, the policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall cover conflicts of interest between the issuer and other group entities.
5. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall include:
 - (a) a description of the circumstances which may give rise to a conflict of interest in accordance with Articles 2 and 3;
 - (b) the processes to be applied in order to identify, prevent, manage, and disclose the conflicts of interest referred to in Articles 2 and 3.
6. The processes referred to in paragraph 5 shall differentiate between conflicts of interest that persist and need to be managed permanently and those that occur occasionally and need to be mitigated by a case-specific measure.
7. The processes referred to in paragraph 5 shall include a description of the following:
 - (a) effective processes to promptly report and communicate through appropriate internal reporting channels of any matter that may result, or has resulted, in a conflict of interest;
 - (b) effective processes to prevent and control the exchange of information between connected persons engaged in activities where a conflict of interest may arise, where the exchange of that information may harm the interests of the holder of asset-referenced tokens or may affect the performance of such connected person's duties and responsibilities;
 - (c) measures to ensure that conflicting activities or transactions are entrusted, where possible, to different persons within the same issuer of asset-referenced tokens or otherwise subject to targeted monitoring and measures that achieve the same effect;
 - (d) measures to ensure that connected persons who perform outside business activities related to the issuer of asset-referenced tokens are prevented from having inappropriate influence within the issuer of asset-referenced tokens regarding those activities;
 - (e) measures to ensure that the risk of conflicts of interest is addressed at the level of the management body or by its responsible committee. Those measures shall ensure that the members of the committee or members of the management body do not have a conflict of interest and shall provide sufficient guidance

on the identification and management of conflicts of interest that may affect the members of the management body to take objective and impartial decisions in the best interests of the issuer of asset-referenced tokens;

- (f) measures to ensure the conferral of the responsibility to the members of the management body to inform other members of and abstain from voting on any matter where the members have or may have a conflict of interest or where the objectivity of those members or ability to properly fulfil their duties towards the issuer of asset-referenced tokens may be otherwise compromised;
- (g) measures to ensure that members of the management body are prevented from being a member of the management body in the management or supervisory function in competing issuers of asset-referenced tokens.

8. Where the conflicts of interest policies and procedures are insufficient to prevent or mitigate the risks of damage to holders of asset-referenced tokens or the issuer of asset-referenced tokens', the issuer shall amend the policies and procedures to address any deficiencies.

9. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall require issuers of asset-referenced tokens to keep records and document the types of activities or situations giving rise or which may give rise to the conflicts of interest referred to in Article 2(1) and Article 3(1) and, for each type of activity or situation, the measures taken to prevent or mitigate such conflicts. The records shall be kept for a retention period of 5 years.

10. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall ensure that the transactions referred to in Article 2(4) are identified by or notified to the issuer of asset-referenced tokens before a decision on the execution of the transaction and its conditions is taken. Those policies and procedures shall also ensure that decisions to enter into such transactions are taken objectively, in the interest of each party, and that the conditions for the transaction are the same as the conditions that apply between independent parties for the same transactions in the absence of a conflict of interest.

11. In relation to the transactions referred to in Article 2(4), the policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall ensure that:

- (a) decision-making processes for entering into those transactions are set out and that thresholds, expressed as the volume of the transaction, above which such a transaction requires the approval by the management body are established;
- (b) employees and members of the management body are made aware of the rules applied on those transactions, and of the measures established by the issuer of asset-referenced tokens in relation to them;
- (c) the issuer of asset-referenced tokens is informed promptly of any of those transactions;
- (d) a record is kept of the transaction notified to or identified by the issuer of asset-referenced tokens, documenting the date and time of the transaction, the conditions, its volume, the counterparty and any authorisation or prohibition in connection with that transaction.

Article 5

Policies and procedures in the context of remuneration

Issuers of asset-referenced tokens shall, within the policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114, ensure that remuneration procedures, policies and arrangements:

- (a) do not create a conflict of interest or provide for incentives in the short, medium or long term for the employees or members of the management body to favour their own interests or the interests of the issuer of asset-referenced tokens to the detriment of any holder of asset-referenced tokens or shareholders or members of the issuer of asset-referenced tokens;
- (b) identify and mitigate any potential conflicts of interest which may be caused by the award of variable remuneration, underlying key performance indicators and risk alignment mechanisms, including the pay out of instruments to employees or management body as part of the variable or fixed remuneration.

Article 6

Policies and procedures on arrangements with third-party service providers

Issuers of asset-referenced tokens shall within the policies and procedures under this Regulation ensure that no written arrangement with a third-party service provider is concluded unless:

- (a) the written arrangement obliges the third party to act in a manner consistent with those policies and procedures;
- (b) the written arrangement ensures that when the services referred to in Article 34(5), point (h), of Regulation (EU) 2023/1114 are provided by a third party that is part of the same group as the issuer of asset-referenced tokens, decisions related to the provision of third-party services are taken objectively, in the interest of each party and under the same conditions that would apply if the agreement to provide services had been entered into by independent parties;
- (c) issuers of asset-referenced tokens ensure that the fees offered to provide one of the services referred to in Article 34(5) point (h) of Regulation (EU) 2023/1114 do not promote the interests of the issuer of asset-referenced tokens or the third party in a way that may conflict with the interests of a holder of asset-referenced tokens.

Article 7

Policies and procedures on resources for the management of conflicts of interest

1. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall ensure that resources necessary to manage conflicts of interest are allocated and managed effectively.
2. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall ensure that the issuer of asset-referenced tokens appoints a person responsible for the identification, prevention, management and disclosure of conflicts of interest. That person shall have the authority necessary to discharge its responsibilities appropriately and independently and shall report directly to the management body. Those policies and procedures shall ensure that any other task or function that that person may also be responsible for, does not compromise that person's ability to perform, independently the identification, prevention, management and disclosure of conflicts of interest.
3. The policies and procedures referred to in Article 32(1) of Regulation (EU) 2023/1114 shall define the minimum skills and knowledge necessary for employees to identify, prevent, manage and disclose conflicts of interest under this Regulation.

Article 8

Disclosures of the general nature and source of conflicts of interest and the steps taken to mitigate them

1. Issuers of asset-referenced tokens shall keep the content of the disclosure referred to in Article 32(3) of Regulation (EU) 2023/1114 updated at all times.
2. The disclosure made in accordance with Article 32(3) of Regulation (EU) 2023/1114 shall provide information on:
 - (a) the circumstances and situations giving rise or which may give rise to conflicts of interest referred to in Article 2(1) and Article 3(1), including the role and capacity in which the issuer of asset-referenced tokens is acting in relation to the holder of asset-referenced tokens;
 - (b) whether the issuer of asset-referenced tokens is also a crypto asset-service provider;
 - (c) the risks identified in relation to the conflicts of interest referred to in point (a);
 - (d) the steps and measures taken to prevent or mitigate the identified conflicts of interest.
3. The disclosure of information in accordance with paragraph 2 shall not be considered as a sufficient way to manage and mitigate conflicts of interest.
4. The information referred to in paragraph 2 shall be made accessible to holders and prospective holders of asset-referenced tokens on the website of the issuer of asset-referenced tokens at all times. If the issuer of asset-referenced tokens offers asset-referenced tokens to the public or seeks admission to trading on a trading platform the issuer of asset-referenced tokens shall make the information available on that trading platform.
5. The information referred to in paragraph 2 shall be made available by the issuer of asset-referenced tokens in an official language of the home Member State and in a language which is customary in the sphere of international finance.

Article 9

Entry into force

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

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

Done at Brussels, 27 February 2025.

APPENDIX 25: COMMISSION DELEGATED REGULATION (EU) 2025/1142
of 27 February 2025
supplementing Regulation (EU) 2023/1114 of the European Parliament and of
the Council with regard to regulatory technical standards specifying the
requirements for policies and procedures on conflicts of interest for crypto-
asset service providers and the details and methodology for the content of
disclosures on conflicts of interest

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²¹⁰, and in particular Article 72(5), third subparagraph, thereof,

Whereas:

- (1) When implementing and maintaining the policies and procedures to identify, prevent, manage and disclose conflicts of interest as referred to in Article 72 of Regulation (EU) 2023/1114, crypto-asset service providers should take into account the principle of proportionality to ensure that the conflict of interest policies and procedures are sufficient to achieve the objectives of that Article. In accordance with Article 72(1) of Regulation (EU) 2023/1114, crypto-asset service providers are also to take into account the scale, nature and range of crypto-asset services provided.
- (2) To ensure that the conflict of interest policies and procedures are in the best interest of the crypto-asset service providers and their clients, those policies and procedures should cover situations that may influence or affect, or that may appear to influence or affect, the ability of crypto-asset service providers or of persons connected to those crypto-asset service providers to exercise their duties or responsibilities objectively and independently, in the interest of clients, and the performance of the entity.
- (3) Where the crypto-asset service provider belongs to a group, circumstances related to that fact should be also taken into account.
- (4) Crypto-asset service providers that are part of a group should therefore appropriately address situations that may give rise to a conflict of interest due to the structure and business activities of other entities within their group. To that end, where a crypto-asset service provider provides, on its own or with other entities of its group, multiple crypto-asset services and related activities, the conflict of interest policies and procedures should prevent any abuse resulting from concentrated control, management of related-party transactions, including transactions involving affiliated companies.
- (5) To prevent conflict of interests detrimental to the crypto-asset service providers and its clients, conflict of interest policies and procedures should ensure the careful monitoring of situations where persons connected to the crypto-asset service provider have a personal, professional or a political relationship with another person. Such relationships have the potential to influence the objective judgment of the crypto-

²¹⁰ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

asset service provider and connected persons. Personal relationships should include those between relatives by blood or marriage, or social relationships not limited to a formal partnership or marriage. Political relationships should include memberships of political parties, or relationships with government or other public officials. Professional relationships should consist in relationships in a professional setting, including at work or in a business context.

- (6) In order for the conflict of interest policies and procedures to be effective, crypto-asset service providers should have a transparent organisational and managerial structure, which is consistent with their overall strategy and risk profile, and which is well understood by their management body, affiliated entities, national competent authorities, and clients.
- (7) The sound governance and management of crypto-asset service providers is fundamental to ensure both their functioning and trust in the financial markets. For those reasons, the conflict of interest policies and procedures should deal with cases where the conflicts of interest could impede the ability of the members of the management body to take objective and impartial decisions in the best interests of the crypto-asset service provider and its clients.
- (8) The potential and actual conflicts of interest to be taken into consideration by crypto-asset service providers pursuant to Article 72(1) of Regulation (EU) 2023/1114 should be those affecting, or potentially affecting, the interests of clients as well as those affecting or potentially affecting the performance and situation of the crypto-asset service provider as such and thus, indirectly, also affect the interests of clients.
- (9) To ensure transparency about the measures taken to mitigate identified conflicts of interests, crypto-asset service providers should comply with the requirements to disclose conflicts of interests set out in Article 72(2) of Regulation (EU) 2023/1114. However, to ensure that conflicts of interest policies and procedures meet their objective, crypto-asset service providers should not rely on simply disclosing conflicts of interests as a way to address them. Therefore, they should comply with the requirements of disclosure, but also ensure the identification, prevention and management of conflicts of interest.
- (10) The remuneration of staff involved in the provision of crypto-asset services to clients can give rise to conflicts of interest. While crypto-asset service providers are free to determine their remuneration policies in general, they should ensure that their remuneration policies and practices do not create conflicts between the interests of clients and those of the crypto-asset service provider or connected persons and do not impair the ability of connected persons to carry out their duties and responsibilities in an independent and objective manner. To ensure the efficient and consistent application of the conflicts of interest requirements in the area of remuneration, the notion of remuneration should include all forms of payment and financial or non-financial benefits provided directly or indirectly by crypto-asset service providers to persons with an impact, directly or indirectly, on crypto-asset services provided by the crypto-asset service providers or on their corporate behaviour. Remuneration policies implemented in the context of conflict of interest policies should ensure that clients are treated fairly and their interests are not impaired by the remuneration practices adopted by the crypto-asset service providers in the short, medium or long term.
- (11) In view of appropriate implementation, maintenance and review of conflict of interest policies and procedures, such policies and procedures should ensure that there are adequate and internally independent human resources for the management of conflicts of interest. Those human resources should also have the necessary skills, knowledge and expertise on conflicts of interest. For that reason, the person responsible for the management of conflicts of interest should be able to access and report directly to the relevant internal reporting channel in its management function and, where applicable, in its supervisory function.

- (12) To ensure that clients can take an informed decision, crypto-asset service providers should keep up-to-date the information disclosed about the general nature and sources of conflicts of interest and the steps taken to mitigate them pursuant to Article 72(2) of Regulation (EU) 2023/1114. Such disclosure should take into account the various types of clients it is addressed to, including the fact that those clients have varying levels of knowledge and experience.
- (13) Crypto-asset service providers may often operate in a vertically integrated manner or in close cooperation with affiliated entities or entities of the same group. To make clear to clients in what role and capacity the crypto-asset service provider is acting, the disclosures referred to in Article 72(2) of Regulation (EU) 2023/1114 should include a sufficiently detailed, specific and clear description of the situations which give or may give rise to conflicts of interest. That information is particularly relevant in situations where the crypto-asset service provider markets itself engaging in crypto-asset exchange but actually engages in or combines multiple functions or activities, including operating a trading platform in crypto-assets, market-making, offering margin trading, facilitating custody, settlement, lending, borrowing and proprietary trading. To ensure investor protection, prospective clients and clients should have access to the disclosures referred to in Article 72(2) of Regulation (EU) 2023/1114 in a language with which they are familiar. Therefore, crypto-asset service providers should make available such disclosures in all languages used by crypto-asset service provider to market their services or communicate with clients in the relevant Member State.
- (14) Union law on data protection, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council²¹¹, is applicable to the processing of personal data by crypto-asset service providers, including the information collected through their conflicts of interest policies and procedures.
- (15) In line with the principle of data minimisation as laid down in Regulation (EU) 2016/679, crypto-asset service providers should specify which categories of personal data they will process to identify, prevent and manage the conflicts of interest in their policies and procedures referred to in Article 72(1) of Regulation (EU) 2023/1114, taking into account the scale, nature and range of crypto-asset services and other activities provided or carried out by the crypto-asset service provider and the group to which it belongs.
- (16) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council²¹² and delivered an opinion on 17 July 2024.
- (17) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority, in close cooperation with the European Banking Authority.
- (18) The European Securities and Markets Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in

²¹¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

²¹² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²¹³,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'connected person' means any of the persons referred to in Article 72(1), points (a)(i) to (a)(iv), of Regulation (EU) 2023/1114;
- (2) 'remuneration' means any form of payment or other financial or non-financial benefits provided directly or indirectly by crypto-asset service providers in connection with the provision of crypto-asset services to clients;
- (3) 'group' means a group as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council²¹⁴.

Article 2

Conflicts of interest potentially detrimental to the crypto-asset service provider

1. The policies and procedures referred to in Article 72(1) of Regulation (EU) 2023/1114 to identify, prevent, manage and disclose conflicts of interests potentially detrimental to the crypto-asset service provider shall specify the circumstances which are capable of directly or indirectly affecting the objectivity and impartiality of the connected persons in exercising their duties and responsibilities. Such policies and procedures shall take into account, at least, situations or relationships where a connected person:
 - (a) has an economic interest in a person, body or entity with interests conflicting with those of the crypto-asset service provider;
 - (b) has a present relationship with a person, body or entity that has interests conflicting with those of the crypto-asset service provider that could be of a personal, professional or political nature or had that relationship within the previous 3 years, starting from when the assessment is made;
 - (c) carries out tasks or activities, or is entrusted with responsibilities, conflicting with those of the crypto-asset service provider or is hierarchically supervised by a person in charge of functions or tasks conflicting with those of the crypto-asset service provider.

²¹³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

²¹⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

2. For the purposes of identifying the persons, bodies or entities with conflicting interests to those of crypto-asset service providers, crypto-asset service providers shall take into account, at least, whether that person, body or entity:

- (a) is likely to make a financial gain, or avoid a financial loss, at the expense of the crypto-asset service provider;
- (b) has an interest in the outcome of a crypto-asset service provided or an activity carried out by the crypto-asset service provider, which is distinct from the crypto-asset service provider's interest in that outcome;
- (c) carries out the same business as the crypto-asset service provider or is a client, consultant, adviser, delegatee, outsourcee, service provider or other supplier (including subcontractors) of the crypto-asset service provider and there are demonstrable grounds that there may be a conflict of interests with the crypto-asset service provider.

3. For the purposes of paragraph 1, point (a), crypto-asset service providers shall take into account situations where the connected person that is a member of the management body, employee of the crypto-asset service provider or a shareholder or member that has a qualifying holding in the crypto-asset service provider:

- (a) holds shares, tokens (including governance tokens), other ownership rights or membership in that person, body or entity;
- (b) holds debt instruments of or has other debt arrangements with that person, body or entity;
- (c) has any form of contractual arrangements related to the activities regulated under Regulation (EU) 2023/1114 with that person, body or entity.

Article 3

Conflicts of interest potentially detrimental to clients

For the purposes of identifying the conflicts of interest that arise when providing crypto-asset services and that may damage the interests of clients, crypto-asset service providers shall take into account whether the crypto-asset service provider or any connected person:

- (a) is likely to make a financial gain, avoid a financial loss, or receive another benefit, at the expense of the client;
- (b) has an interest in the outcome of a crypto-asset service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;
- (c) has a financial or other incentive to favour the interest of one or more clients over the interests of another client;
- (d) carries out the same business as the client;
- (e) receives or will receive from a person other than the client an inducement in relation to a service provided to the client, in the form of monetary or non-monetary benefits or services.

Article 4

Conflict of interest policies and procedures referred to in Article 72(1) of Regulation (EU) 2023/1114

1. The conflict of interest policies and procedures shall be set out in writing and shall take into account:

- (a) the scale, nature and range of crypto-asset services and other activities provided or carried out by the crypto-asset service provider;
 - (b) where the crypto-asset service provider is a member of a group, any circumstances which may give rise to a conflict of interest due to the structure and business activities of other entities within the group.
2. The management body of the crypto-asset service provider shall be responsible for the definition, adoption, implementation of those policies and procedures. It shall periodically assess and review their effectiveness and address any deficiencies in that respect.
3. Crypto-asset service providers shall establish effective internal channels to inform and provide ongoing access to employees and members of the management body of their conflict of interest policies and procedures and provide appropriate updated training on those conflict of interest policies and procedures.
4. The conflict of interest policies and procedures shall include:
- (a) in relation to any crypto-asset service or activity provided by the crypto-asset service provider or carried out on its behalf by a consultant, adviser, delegatee or outsourcee, a description of the circumstances which may give rise to a conflict of interest as referred to in Articles 2 or 3;
 - (b) the processes to be applied in order to identify, prevent, manage, and disclose the conflicts of interest referred to in Articles 2 and 3;
 - (c) a clear reference to the organisational and managerial structure of the crypto-asset service provider.
5. The conflict of interest policies and procedures shall take into account the risk of damage to the interests of one or more clients or the interests of the crypto-asset service provider.
6. The processes referred to in Article 4(4), point (b), shall include at least the following elements:
- (a) measures to report and communicate promptly to the designated internal reporting channel any matter that may result, or has resulted, in a conflict of interest;
 - (b) measures to prevent and control the exchange of information between connected persons engaged in activities involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more clients;
 - (c) the separate internal oversight of connected persons whose principal functions involve carrying out activities on behalf of, or providing services to, clients whose interests may conflict with each other or with the interests of the crypto-asset service provider;
 - (d) the removal of any direct link between the remuneration provided to the crypto-asset service provider's employees, delegatees, outsourcees, subcontractors or members of the management body principally engaged in one activity and the remuneration of, or revenues generated by, different employees, delegatees, outsourcees, subcontractors or members of the management body of the crypto-asset service provider principally engaged in another activity, where there are demonstrable grounds that a conflict of interest may arise in relation to those activities;
 - (e) measures to ensure that connected persons who perform outside business activities related to the crypto-asset service provider are prevented from having inappropriate influence within the crypto-asset service provider regarding those activities;

- (f) measures to prevent or control the simultaneous or sequential involvement of a connected person in separate crypto-asset services or activities where such involvement may impair the proper management of conflicts of interest;
- (g) measures to ensure that conflicting activities or transactions are entrusted to different persons;
- (h) measures to establish the responsibility of the members of the management body to inform other members of and abstain from voting on any matter where a member has or may have a conflict of interest;
- (i) measures to prevent members of the management body from holding management positions in competing crypto-asset service providers outside of the same group;
- (j) measures to prevent and control the exchange of information between connected persons engaged in activities involving a risk of a conflict of interest where the exchange of that information may affect the performance of such connected person's responsibilities to the crypto-asset service provider.

7. The crypto-asset service provider shall ensure that policies and procedures referred to in paragraph 3, point (b), provide reasonable reassurance that the risks of damage to the interests of the crypto-asset provider or its clients will be prevented or appropriately mitigated.

8. The conflicts of interest policies and procedures shall ensure that adequate resources, including adequate and independent human resources are dedicated by the crypto-asset service provider to their implementation, maintenance and review, including the appointment of a person that is responsible for the identification, prevention, management and disclosure of conflicts of interest.

That person shall have the authority necessary to discharge their responsibilities appropriately and independently and shall report directly to the management body.

Where that person has been entrusted with other roles or functions, those shall be appropriate given the scale, nature and range of crypto-asset services and other activities of the crypto-asset service provider, and shall not compromise the independence and objectivity of that person.

The conflict of interest policies and procedures shall define the skills, knowledge and expertise necessary for staff in charge of the responsibilities referred to in the first subparagraph and shall provide for such staff to have access to all relevant information for the discharge of their responsibilities.

Article 5

Policies and procedures on conflict of interest in the context of remuneration

1. In their conflict of interest policies and procedures referred to in Article 72(1) of Regulation (EU) 2023/1114, crypto-asset service providers shall define and implement remuneration policies and procedures taking into account the interests of all their clients.
2. Crypto-asset service providers shall ensure that the remuneration policies and procedures referred to in paragraph 1:
 - (a) do not create a conflict of interest or incentive that may lead the persons to whom they apply to favour their own interests or the crypto-asset service provider's interests to the potential detriment of any client or that may lead the persons to whom they apply to favour their own interests to the detriment of the crypto-asset service provider;

- (b) appropriately mitigate conflicts of interest which may be caused by the award of variable remuneration and underlying key performance indicators and risk alignment mechanisms, including the pay out of instruments to employees or management body as part of the variable or fixed remuneration.
3. Crypto-asset service providers shall ensure that their remuneration policies and procedures referred to in paragraph 1 apply to all of the following:
- (a) their employees and any other natural person whose services are placed at the disposal and under the control of the crypto-asset service provider and who is involved in the provision of crypto-asset services by the crypto-asset service provider;
 - (b) members of their management body;
 - (c) any natural person directly involved in the provision of services to the crypto-asset service provider under an outsourcing arrangement for the purpose of the provision of crypto-asset services by the crypto-asset service provider.
4. The crypto-asset service provider's remuneration procedures, policies and arrangements shall apply to persons referred to in paragraph 3 that have an impact, directly or indirectly, on crypto-asset services provided by the crypto-asset service providers or on its corporate behaviour, regardless of the type of clients, and to the extent that the remuneration of such persons and other relevant incentives may create a conflict of interest that encourages them to act against the interests of any of the crypto-asset service provider's clients or to favour their own interests to the detriment of the crypto-asset service provider.

Article 6

Policies and procedures on conflicts of interest in the context of personal transactions

1. Conflict of interest policies and procedures shall ensure that transactions resulting in a position in or exposure to a crypto-asset effected by or on behalf of a connected person are subject to close scrutiny and monitoring where at least one of the following criteria are met:
- (a) the connected person is acting outside the scope of the activities that the connected person carries out in its professional capacity;
 - (b) the transaction is carried out for the account of any of the following persons:
 - (i) the connected person;
 - (ii) any person with whom a connected person has a family relationship or close links as referred to in Article 3(1), point (31), of Regulation (EU) 2023/1114;
 - (iii) a person from whom the connected person can expect to obtain a direct or indirect material advantage linked to the outcome of the transaction, other than a fee or a commission for the execution of the transaction.

For the purposes of the first subparagraph, point (b)(ii), person with whom a connected person has a family relationship shall mean any of the following:

- (a) the spouse of the connected person or any partner of that person considered by national law as equivalent to a spouse;

- (b) a dependent child or stepchild of the connected person;
 - (c) any other relative of the connected person who has shared the same household as that person for at least 1 year during the 5 years preceding the date of the personal transaction concerned.
2. In relation to the transactions referred to in paragraph 1, the policies and procedures shall ensure that:
- (a) with respect to the decision to execute such transactions:
 - (i) such transactions are identified by or notified to the person responsible for the management of conflicts of interest before a decision on the execution of the transaction and its conditions is taken and that such transactions are documented;
 - (ii) decisions to enter into such transactions are taken objectively, in the interest of each party;
 - (iii) the conditions for the transaction are equivalent to the conditions that would have applied between independent parties for the same transactions in the absence of a conflict of interest.
 - (b) decision-making processes for entering into those transactions are set out and that thresholds, expressed as the volume of the transaction, above which such a transaction requires the approval by the management body are established;
 - (c) employees and members of the management body are aware of the rules applied on those transactions, and of the measures established by the crypto-asset service provider in relation to them;
 - (d) the crypto-asset service provider is informed promptly of any of those transactions;
 - (e) a record is kept of the transaction identified or notified to the crypto-asset service provider, specifying the date and time of the transaction, the conditions, its volume, the counterparty and any authorisation or prohibition in connection with that transaction.

Article 7

Disclosures by the crypto-asset service provider as referred to in Article 72(2) of Regulation (EU) 2023/1114

1. The disclosures made in accordance with Article 72(2) of Regulation (EU) 2023/1114 shall contain a detailed, specific and clear description of:
- (a) the services, activities or circumstances giving rise, or which may give rise, to conflicts of interest as referred to in Article 2(1) and Article 3(1), including the role and capacity in which the crypto-asset service provider is acting when providing the crypto-asset service to the client;
 - (b) the nature of the conflicts of interest identified;
 - (c) the risks identified in relation to the conflicts of interest referred to in Article 2(1) and Article 3(1);
 - (d) the steps and measures taken to mitigate the identified conflicts of interest.
2. The disclosures referred to in paragraph 1 shall not be considered as a sufficient way to manage and mitigate conflicts of interest.
3. Crypto-asset service providers shall make available to their clients the information referred to in paragraph 1 at all times in a prominent place on their website and in formats available on any device through which the

crypto-asset service is provided to the client. Where the crypto-asset service provider makes such disclosures on the relevant device, the crypto-asset service provider shall also provide a link to the same disclosures made on its website.

4. Crypto-asset service providers shall keep the information referred to in Article 72(2) of Regulation (EU) 2023/1114 updated at all times.

5. For the purposes of the disclosure referred to in paragraph 2, crypto-asset service providers shall keep up-to-date records of all situations giving rise to actual and potential conflicts of interest, including the relevant crypto-asset services or activities, and of the measures taken to prevent or manage such conflicts in the relevant situations. The records shall be kept for a period of 5 years.

6. Crypto-asset service providers shall make the disclosures available in all languages used by them to market their services and to communicate with their clients in the relevant Member State.

Article 8

Additional requirements in relation to placing

1. For the purposes of identifying the types of conflict of interest that arise where the crypto-asset service provider provides placing services, crypto-asset service providers shall take into account, without prejudice to Article 79(2) of Regulation (EU) 2023/1114, the following situations:

- (a) the crypto-asset service provider is also offering pricing services in relation to the offer of crypto-assets;
- (b) the crypto-asset service provider is also providing execution of orders for crypto-assets on behalf of clients and research services;
- (c) the crypto-asset service provider is placing crypto-assets of which itself or an entity from its group is the issuer.

2. Crypto-asset service providers shall establish, implement and maintain internal arrangements to ensure all of the following:

- (a) that the pricing of the offer does not promote the interests of other clients of the crypto-asset service provider or the crypto-asset service provider's own interests, in a way that may conflict with the issuer client's interests;
- (b) that the pricing of the offer does not promote the interests of the issuer client's, the crypto-asset service provider's own interests or the interests of a connected person, in a way that may conflict with other clients' interests;
- (c) the prevention of a situation where persons responsible for providing services to the crypto-asset service provider's investment clients, or deciding which products should be included in the list of products offered or recommended by the crypto-asset service provider, are directly involved in decisions about pricing to the issuer client;
- (d) the prevention of a situation where persons responsible for providing services to the crypto-asset service provider's investment clients are directly involved in decisions about recommendations to the issuer client on allocation;
- (e) the prevention of the exercise of staking rights without prior consent of the investment client.

3. Crypto-asset service providers shall have in place a centralised procedure to identify all their placing operations, including the date on which the crypto-asset service provider was informed of potential placing operations.

Article 9

Entry into force

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

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

Done at Brussels, 27 February 2025.

APPENDIX 26: COMMISSION DELEGATED REGULATION (EU) 2025/885

of 29 April 2025

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the arrangements, systems and procedures to prevent, detect and report market abuse, the templates to be used for reporting suspected market abuse, and the coordination procedures between the competent authorities for the detection and sanctioning of market abuse in cross-border market abuse situations

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²¹⁵, and in particular Article 92 (2), third subparagraph, thereof,

Whereas:

- (1) Requirements for the arrangements, procedures and systems that persons professionally arranging or executing transactions in crypto-assets are to have in place for the reporting of orders, transactions and other aspects of the functioning of distributed ledger technology (DLT), including the consensus mechanism, where there might exist circumstances indicating that market abuse has been committed, is being committed or is likely to be committed are necessary. Such requirements are critical and should assist in the prevention and detection of market abuse. Those requirements should also assist in ensuring that reports concerning reasonable suspicions on orders, transactions and other aspects of the functioning of distributed ledger technology (STOR) submitted to competent authorities are meaningful, comprehensive, and useful.
- (2) To ensure that prevention and detection of market abuse is effective, appropriate systems should be in place to monitor orders, transactions and other aspects of functioning of the DLT, in accordance with the scale, size and nature of the business activity of the person professionally arranging or executing transactions. Such systems should provide for human analysis carried out by appropriately trained staff based on objective information at the disposal of the reporting entity. The entity should collect additional personal data, only to ensure appropriate human analysis. To allow for further analysis of potential insider dealing or market manipulation or attempted insider dealing or market manipulation, the systems for monitoring market abuse should be capable of producing alerts in line with specified parameters. The access to such alerts should be recorded to ensure that they are only used for detecting market abuse. The

²¹⁵ OJ L 150, 9.6.2023, p. 40

whole process is likely to require some level of automation.

- (3) To analyse whether the arrangements, systems and procedures to prevent and detect market abuse are appropriate, it is necessary to assess the impact that the person that professionally arranges or executes transactions may have on the market. As part of that assessment, such persons should assess whether they have a significant or dominant position in any crypto-asset market asset segment in which case those arrangements, systems and procedures should be proportionate to their position.
- (4) The prevention and detection of market abuse requires an ongoing monitoring of all orders and transactions arranged or executed by persons that professionally arrange or execute transactions, irrespective of whether those orders and transactions are executed on the distributed ledger ('on-chain') or outside the distributed ledger ('off-chain'), including transfers of crypto assets to or from accounts of clients of the same crypto-asset service provider.
- (5) To facilitate and promote a consistent approach and practices across the Union in relation to the prevention, detection and sanctioning of market abuse, it is necessary to lay down detailed provisions harmonising the content of, the template for and the timing of the reporting of suspicious orders and transactions and other aspects of the functioning of DLT.
- (6) To share resources, to centrally develop and maintain monitoring systems, and to build expertise in the context of monitoring suspicious orders and transactions, persons that professionally arrange or execute transactions in crypto-assets should be able to delegate the prevention and detection of such orders, transactions and other aspects of the functioning of DLT within a group, or to delegate the data analysis and the generation of alerts, subject to appropriate conditions. Such delegation should neither prevent the competent authorities from assessing at any time, whether the arrangements, systems and procedures of the person to whom the functions are delegated are effectively in line with the obligation to prevent and detect market abuse. The obligation to report and the responsibility to comply with this Regulation and with Article 92 of Regulation (EU) 2023/1114 should remain with the delegating person.
- (7) Crypto asset service providers operating a trading platform should have appropriate trading rules that contribute to the prevention of market abuse. Those entities should also have facilities to replay the order book in order to analyse the trading activity.

A single and harmonised template for electronically submitting a suspicious transaction and order report ("STOR") should facilitate the efficient sharing of information on suspicious orders and transactions between competent authorities in cross-border investigations.

- (8) The information fields in such a STOR template, where completed clearly, comprehensively, objectively and accurately, should assist the competent authorities to promptly assess such suspicious orders and transactions and take the necessary action. Such STOR template should therefore enable the persons submitting the STOR to provide the information that competent authorities consider relevant about suspicious orders, transactions or other aspects of the functioning of the distributed ledger technology reported and to explain the reasons for the suspicion. The STOR template should also enable the persons submitting the STOR to provide personal data that would make it possible to identify the persons involved in the suspicious activity and assist the competent authorities in their investigations. Such information should be provided at the outset, so that the integrity of the investigation is not compromised by the potential necessity for a competent authority to revert during an investigation to the person who submitted the STOR. Any processing of personal data under this Regulation should be carried out in compliance with

Regulation (EU) 2016/679 of the European Parliament and of the Council²¹⁶ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. The data minimisation principle in particular should be complied with where personal data are collected to ensure compliance with this Regulation.

- (9) To facilitate the submission of a STOR, the template should allow for the attachment of documents and materials that are necessary to support the notification made, including in the form of an annex that lists the suspicious orders or transactions and detailing their prices and volumes. In addition, the STOR template should allow for the reporting of suspicious behaviours connected to the functioning of the DLT.
- (10) Persons professionally arranging or executing transactions in crypto-assets should not notify all orders received or transactions conducted that have triggered an internal alert. Such a requirement would be inconsistent with the requirement to assess on a case-by-case basis whether there are reasonable grounds for suspicion.
- (11) The analysis of orders, transactions or other aspects of the functioning of the DLT should factor in not only the internal information of the person professionally arranging or executing transactions in crypto-assets, but all the information publicly available, including information about transactions embedded in a public ledger system.
- (12) The STORs should be submitted to the competent authority without delay once a reasonable suspicion about the existence of market abuse has been formed. The analysis as to whether a given order or transaction is to be considered suspicious should be based on facts, not speculation or presumption and should be carried out as quickly as practicably possible. Delaying the submission of a report to incorporate further suspicious orders, transactions or other aspects of the functioning of the DLT or accumulating several STORs would be irreconcilable with the obligation to act without delay, where a reasonable suspicion has already been formed. In any case, persons professionally arranging or executing transactions in crypto-assets should assess on a case-by-case basis whether several orders, transactions or other aspects of the functioning of the DLT could be reported in a single STOR.
- (13) There might be circumstances where a reasonable suspicion of market abuse is formed after the suspected activity occurred, due to subsequent events or available information. That should not be a reason for not reporting the suspected activity to the competent authority. To demonstrate compliance with the reporting requirements in those specific circumstances, the person submitting the STOR should be able to justify the time discrepancy between the occurrence of the suspected activity and the formation of the reasonable suspicion of market abuse having been committed, being committed or likely to be committed.
- (14) To assist persons professionally arranging or executing transactions in crypto-assets in exercising their judgement when considering subsequent suspicious orders or transactions, they should be able to recall and review the analysis of STORs which have been submitted, and of those suspicious orders, transactions and behaviours connected to the functioning of the DLT which were analysed, but in relation to which the competent authority concerned concluded that the grounds for suspicion were not reasonable.
- (15) To prevent market abuse to the maximum extent possible, persons professionally arranging or executing transactions in crypto-assets should be able to refine their surveillance systems and to detect patterns of repeated behaviour, the aggregate of which could, considered as a whole, result in a reasonable suspicion

216 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

of market abuse. Those persons should therefore be required to analyse suspicious orders, transactions, behaviours and other aspects connected to the functioning of the distributed ledger technology which did not lead to a STOR and record such analyses. Such records should also assist such persons in evidencing compliance with Article 92 of Regulation (EU) 2023/1114 and should facilitate the performance by competent authorities of their supervisory, investigatory and enforcement functions under Article 92 of Regulation (EU) 2023/1114.

- (16) Considering that markets in crypto-assets are inherently cross-border, it is necessary to specify coordination procedures between the competent authorities for the detection and sanctioning of market abuse in case of cross-border market abuse situations. Such coordination procedures should ensure that there are no conflicting investigations or enforcement activities. In that context, cross-border market abuse situations should include cases in which suspicious transactions are carried out in a Member State concerning a crypto-asset that is admitted to trading in another Member State and cases in which the crypto-asset service provider concerned is operating in more than one Member State.
- (17) It is necessary to lay down provisions for the transmission of STORs among competent authorities. Such requirements are critical, in the absence of a transaction reporting regime, to ensure efficient market supervision and enforcement while preventing the transmission of a massive flow of information that would not be useful for the receiving authority.
- (18) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority to the Commission ('ESMA').
- (19) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and the Council²¹⁷.
- (20) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725²¹⁸ and delivered their opinion on 22 January 2025.

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'suspicious transaction and order report' (STOR) means the report on suspicious orders or transactions, including any cancellation or modification thereof, and other aspects of functioning of the DLT where circumstances might exist indicating that market abuse has been committed, is being committed or is likely

217 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

218 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.), (OJ L 295, 21.11.2018, p. 39–98).

to be committed.

- (2) 'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means;
- (3) 'group' means a group as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council²¹⁹;
- (4) 'order' means each and every order, including each and every quote, irrespective of whether its purpose is initial submission, modification, update or cancellation of an order and irrespective of its type;

Article 2

General requirements

- 1. Persons professionally arranging or executing transactions in crypto-assets shall establish and maintain arrangements, systems and procedures that ensure:
 - (a) effective and ongoing monitoring, for the purposes of preventing, detecting and identifying orders and transactions where circumstances might exist indicating that market abuse has been committed, is being committed or is likely to be committed, of all orders received and transmitted, and all transactions in crypto-assets executed;
 - (b) effective and ongoing monitoring of aspects of the functioning of the DLT, for the purposes of detecting and identifying other aspects of the functioning of the distributed ledger technology, including the consensus mechanism, where circumstances might exist indicating that market abuse has been committed, is being committed or is likely to be committed;
 - (c) the transmission of STORs to competent authorities in accordance with the requirements set out in this Regulation and using the template set out in the Annex.
- 2. The obligations referred to in paragraph 1 shall apply to orders, transactions and other aspects of the functioning of the DLT which might constitute market abuse and shall apply irrespective of:
 - (a) the capacity in which the order is placed or the transaction is executed;
 - (b) the types of clients concerned;
 - (c) whether the orders were placed or transactions executed on or outside a trading platform.
- 3. Persons professionally arranging or executing transactions in crypto-assets shall ensure that the arrangements, systems and procedures referred to in paragraph 1 are:
 - (a) are appropriate and proportionate in relation to the scale, size and nature of their business activity;
 - (b) regularly assessed, at least through an annually conducted audit and internal review, and updated

²¹⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

when necessary;

(c) clearly documented in writing, including any changes or updates to them, for the purposes of compliance with this Regulation, and that the documented information is maintained for a period of 5 years.

4. Persons professionally arranging or executing transactions in crypto-assets shall, upon request, provide the competent authority with the information on the assessment referred to in paragraph 3, including information on the level of automation put in place.

Article 3

Prevention, monitoring and detection

1. The arrangements, systems and procedures referred to in Article 92(1) of Regulation (EU) 2023/1114 shall:
 - (a) cover the full range of trading activities undertaken by the persons professionally arranging or executing transactions in crypto-assets;
 - (b) produce alerts indicating activities requiring further analysis to detect potential market abuse;
 - (c) enable crypto-asset service providers operating a trading platform to:
 - (i) analyse, individually and comparatively, each transaction executed, and each order placed, modified, cancelled, or rejected in the systems of the trading platform;
 - (ii) prevent the occurrence of repeated behaviours observed on the same trading platform;
 - (d) enable persons professionally arranging or executing transactions in crypto-assets to analyse, individually and comparatively each transaction executed and each order placed, modified, cancelled or rejected inside and outside a trading platform, irrespective of whether or not the orders and transactions are placed and executed by means of the distributed ledger, and aspects of the functioning of DLT that could constitute market abuse.
2. Persons professionally arranging or executing transactions in crypto-assets shall put in place and maintain arrangements and procedures that ensure an appropriate level of human analysis in the prevention, monitoring, detection and identification of transactions, orders and aspects of the functioning of the distributed ledger technology that indicate the likelihood or existence of market abuse behaviours. Persons professionally arranging or executing transaction in crypto-assets shall collect additional personal data, only for the sole purpose of ensuring appropriate level of human analysis.
3. For the purposes of Article 92(1) of Regulation (EU) 2023/1114, persons professionally arranging or executing transactions in crypto-assets shall, to a degree which is appropriate for, and proportionate in relation to, the scale, size, and nature of their business activity, employ ICT systems.

The ICT systems referred to in the first subparagraph shall include ICT systems capable of deferred automated reading, replaying and analysis of order book data. Such systems shall have sufficient capacity to operate in an algorithmic trading environment.

For the purposes of the second subparagraph, algorithmic trading means trading in crypto-assets where a computer algorithm automatically determines individual parameters of orders, including as to whether to initiate the order, the timing, price or quantity of the order, or how to manage the order after its submission, with limited or no human intervention, and does not include any system that is only used for

the purpose of routing orders to one or more trading platform or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions.

4. Persons professionally arranging or executing transactions in crypto-assets may by written agreement outsource to a third party or delegate to a legal person forming part of the same group, as defined in Article 2, point (11), of Directive 2013/34/EU of the European Parliament and of the Council²²⁰, ('providers'), the functions relating to the prevention, monitoring, detection and identification of orders, transactions or other aspects of the functioning DLT that could constitute market abuse, including analysis of data, including order and transaction data, and the generation of alerts. Persons delegating or outsourcing those functions shall remain fully responsible for complying with all of their obligations under this Regulation and Article 92 of Regulation (EU) No 2023/1114. Where those functions are outsourced to a third party, persons outsourcing those functions shall comply with the following requirements at all times:
 - (a) retain the expertise and resources necessary to:
 - (i) evaluate the quality of the services provided and the organisational adequacy of the providers;
 - (ii) supervise the outsourced services;
 - (iii) manage of the risks associated with the outsourcing of those functions on an ongoing basis;
 - (b) they shall have direct access to all the relevant information about the data analysis and the generation of alerts.

The written agreement referred to in the first subparagraph shall describe the rights and obligations of the person delegating or outsourcing the functions and those of the provider. It shall also set out the grounds on the basis of which the person delegating or outsourcing the functions can terminate that agreement.

5. As part of the arrangements, systems and procedures referred to in the first and second subparagraphs, persons professionally arranging or executing transactions in crypto-assets shall maintain the information documenting the analysis carried out with regard to orders, transactions and aspects of the functioning of DLT that could constitute market abuse for a period of 5 years. That information shall include the analysis made and the reasons for submitting or not submitting a STOR. Persons professionally arranging or executing transactions in crypto-assets shall provide that information to the competent authority upon request.

Article 4

Training

Persons professionally arranging or executing transactions in crypto-assets shall organise and provide effective and comprehensive training to the staff involved in the prevention, monitoring, detection and identification of orders, transactions and other aspects of the functioning of the DLT that could indicate the existence of market abuse, including the staff involved in the processing of orders and transactions or in charge of the functioning of

²²⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).

the DLT. Such training shall take place on a regular basis and shall be appropriate and proportionate to the scale, size and nature of the business.

Article 5

Reporting of suspicious orders or transactions

1. Persons professionally arranging or executing transactions in crypto-assets shall establish and maintain effective arrangements, systems and procedures that enable them to assess, for the purpose of submitting a STOR, whether with reference to an order, a transaction or other aspects of the DLT there might be circumstances indicating that market abuse has been committed, is being committed or is likely to be committed. Those arrangements, systems and procedures shall include an appropriate level of human analysis.
2. Persons professionally arranging or executing transactions in crypto-assets shall report a STOR:
 - (a) by using the STOR template set out in the Annex and completing the information fields relevant to the reported orders, transactions or other aspects of functioning of the DLT in a clear and accurate manner, including any supporting documents or attachments;
 - (b) using the electronic means specified by that competent authority.

For the purposes of point (b) of the first subparagraph, the competent authority shall specify on its website the electronic means to be used, and shall ensure that those electronic means ensure that the completeness, integrity, and confidentiality of the information are maintained during the transmission.

The STOR referred to in the first subparagraph shall be based on facts and analysis, considering all the information available to the persons professionally arranging or executing transactions in crypto-assets.

3. Persons professionally arranging or executing transactions in crypto-assets shall ensure and maintain the confidentiality of the information laid down in the report on suspicious orders or transactions and ensure that the person in respect of which the STOR was submitted and anyone who is not required to know about the submission of a STOR by virtue of their function or position within the reporting person is not informed of:
 - (a) the generation of the alerts referred to in Article 3(1), point (b);
 - (b) the assessment that may lead to the submission of a STOR;
 - (c) the fact that the reporting person will complete the STOR without sending requests of information to the person in respect of which the STOR may be submitted to complete certain fields;
 - (d) the submission of a STOR to the competent authority, or the intention to submit one.

Article 6

Timing of STORs

1. Persons professionally arranging or executing transactions in crypto-assets shall ensure that they have in place effective arrangements, systems and procedures for the submission of a STOR without delay, once reasonable suspicion of market abuse is formed.

2. The arrangements, systems and procedures referred to in paragraph 1 shall entail the possibility to report STORs in relation to transactions, orders or other aspects of the functioning of the DLT which occurred in the past, where suspicion has arisen in the light of subsequent events or information. In such cases, persons professionally arranging or executing transactions in crypto-assets shall explain in the STOR the delay between the suspected breach and the submission of the STOR according to the specific circumstances of the case.
3. Persons professionally arranging or executing transactions in crypto-assets shall submit to the competent authority any relevant additional information which they become aware of after the STOR has been submitted, and shall provide any information or document requested by the competent authority.

Article 7

Exchange of reports between competent authorities

1. Competent authorities shall transmit STORs by using the form of unsolicited provision of information set out in Annex IV to Commission Implementing Regulation (EU) 2024/2545²²¹.
2. The transmitting competent authority shall attach the STOR to the form referred to in paragraph 1, without being required to translate it into the language of the receiving competent authority. The transmitting competent authority shall include any additional documents provided in the STOR, specifying the legal basis for the provision of the information.

Article 8

Coordination procedures for the detection and sanctioning of cross-border market abuse situations

1. A competent authority that suspects that cross-border market abuse has taken place, may have taken place, or may be taking place, shall report the status of its preliminary assessment to the other competent authorities concerned without undue delay, including, where applicable, to the competent authorities of the trading platforms where the crypto-asset is admitted to trading.

When informed about cross-border market abuse situations, the receiving competent authorities shall, without undue delay, share information about the planning or existence of any supervisory activity or measure or, where applicable and where such information is available to the receiving competent authority, about an existing criminal investigation on the same case;

2. Competent authorities concerned shall:
 - (a) periodically update each other about cross-border market abuse situations;
 - (b) inform each other about significant interim developments related to cross-border market abuse situations;

²²¹ Commission Implementing Regulation (EU) 2024/2545 of 24 September 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities (OJ L, 2024/2545, 26.11.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/2545/oj).

(c) coordinate their supervisory and enforcement actions.

3. A competent authority that has formally initiated an investigation, enforcement activity or, where applicable, that is aware of a criminal investigation, shall inform the other competent authorities concerned thereof, including, where applicable, the competent authorities of the trading platforms where the crypto-asset is admitted to trading. The reporting competent authority may inform ESMA;
4. Competent authorities having initiated or involved in an investigation or enforcement activity in the context of cross-border situations may request the coordination of ESMA.
5. For the purposes of this Article, 'cross-border market abuse situations' shall mean any of the following situations:
 - (a) a situation in which more than one competent authority is competent to detect, investigate or sanction a potential market abuse case;
 - (b) a situation in which cooperation between two or more competent authorities is necessary to detect, investigate or sanction a potential market abuse case.

Article 9

Entry into force

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

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

Done at Brussels, 29 April 2025

ANNEX

STOR template

<i>Please note that all fields in Sections 1-4 are mandatory. Where information cannot be provided for a specific field, please indicate "NA" and briefly explain the reasons thereof.</i>	
SECTION 1 — IDENTITY OF ENTITY/PERSON SUBMITTING THE STOR	
Persons professionally arranging or executing transactions in crypto assets — Specify in each case:	
Name of the natural person	[First name(s) and surname(s) of the natural person in charge of the submission of the STOR within the submitting entity.]
Position within the reporting entity	[Position of the natural person in charge of the submission of the STOR within the submitting entity.]
Name of the reporting entity	[Full name of the reporting entity, including for legal persons: - the legal form as provided for in the register of the country pursuant to the law of which it is incorporated, where applicable, and - the Legal Entity Identifier (LEI) code in accordance with ISO 17442 LEI code.]
Address of the reporting entity	[Full address (e.g. street, street number, postal code, city, state/province) and country.]
Acting capacity of entity with respect to the orders, transactions or behaviours related to the functioning of the DLT that could constitute market abuse	[Description of the capacity in which the reporting entity was acting with regards to the order(s), transaction(s) or behaviour(s) related to the functioning of the distributed ledger technology that could indicate the existence of market abuse, e.g. executing orders on behalf of clients, operating a trading platform...]
Type of trading activity (market making, arbitrage etc.) and type of crypto-asset traded by the reporting entity	[Description of any corporate, contractual or organisational arrangements or circumstances or relationships.]
Contact for additional request for information	[Person to be contacted within the reporting entity for additional request for information relating to this report (e.g. compliance officer) and relevant contact details, if not the same as person in charge of the submitting of the STOR: - first name(s) and surname(s), - position of the contact person within the reporting entity, - professional e-mail address, - professional phone number.]
Have the facts already been reported to public authorities?	Please state whether the facts have already been reported to public authority (and in that case indicate the name of the authority).

SECTION 2 — TRANSACTION/ORDER/BEHAVIOUR AND OTHER ASPECTS RELATED TO THE FUNCTIONING OF THE DISTRIBUTED LEDGER TECHNOLOGY	
Description of the crypto-asset:	Describe the crypto-asset(s) which is the subject of the STOR, specifying: - the full name (including Digital Token Identifier (DTI) in accordance with ISO 24165-2 or an equivalent unique identifier as referred to in Article 15 of Commission Delegated Regulation (EU) 2025/XX [C(2025)1206]²²² specifying records to be kept of all crypto-asset services, activities, orders and transactions undertaken) or description of the crypto-asset in the absence of DTI. Where the suspicious behaviour involves a trading pair, please list both crypto-assets in the pair, - the type of crypto-asset (asset-referenced token (ART), e-money token (EMT), other crypto-asset) and for ARTs and EMTs, the value, right or official currency (or combination thereof) which the crypto-asset references in order to maintain a stable value.
Name(s) of the distributed ledger(s):	[Provide the full name(s) of the distributed ledger(s) where the suspicious behaviour was observed]
Trading platform where order was placed or the transaction was executed	[Specify name and Market Identifier Code (MIC) in accordance with ISO 10383 to identify the trading platform where the order was placed or the transaction was executed. Where the order/transaction was not identified in a trading platform, please mention 'outside a trading platform' and the LEI of the crypto-asset service provider that carried out the transaction where applicable.]
Location (country)	[Full name of the country and the ISO 3166-1 two-character country code.] [Specify where: - the order is given - the transaction is executed, - the behaviour related to functioning of the distributed ledger technology takes place.]
Description of the order, transaction or suspicious behaviour related to the functioning of the DLT	[Describe at least the following characteristics of the order(s) transaction(s) or behaviour(s) reported - date(s) and time(s) of the order(s), transaction(s) or behaviour(s). (Dates and times should be reported in UTC per the format in ISO 8601).

²²² Commission Delegated Regulation (EU) 2025/xxx supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying records to be kept of all crypto-asset services, activities, orders and transactions undertaken [OJ please add number, date and OJ publication details of C(2025)1206]

	- transaction reference number or order reference number or transaction hash. - settlement date and time, - purchase price/sale price, - volume/quantity of crypto-assets, - for orders only, the type of order (e.g. 'buy with limit EUR x'), [Where there are multiple orders or transactions that could constitute market abuse the details on the prices and volumes of such orders and transactions can be provided to the competent authority in an Annex to the STOR.] - Information on the order cancellation or alteration including: — the nature of the alteration (e.g. change in price or quantity) and the extent of the alteration, [Where there are multiple orders or transactions that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation, the details on the prices and volumes of such orders and transactions can be provided to the competent authority in an Annex to the STOR.] — the means to alter the order (e.g. via e-mail, phone, etc.). In case of reporting a suspicious behaviour related to the functioning of the distributed ledger, please provide as much detail as possible, including the impact it had on the validation of transactions and the method used to alter the functioning of the DLT.
SECTION 3 — DESCRIPTION OF THE NATURE OF THE SUSPICION	
Nature of the suspicion	[Specify the type of breach based on which the reported order(s), transaction(s), behaviour(s) related to the functioning of the DLT, could constitute market abuse].
Reasons for the suspicion	[Description of the activity (transactions and orders, way of placing the orders or executing the transaction and characteristics of the orders and transactions that make them suspicious, behaviours related to the functioning of the DLT) and how the matter came to the attention of the reporting person and specify the reasons for suspicion. For crypto-assets admitted to trading on/traded on a trading platform, a description of the nature of the order book interaction/transactions that could constitute market abuse.]

SECTION 4 — IDENTIFICATION OF PERSON(S) RESPONSIBLE FOR THE ORDERS, TRANSACTIONS OR BEHAVIOUR RELATED TO THE FUNCTIONING OF THE DISTRIBUTED LEDGER TECHNOLOGY THAT COULD CONSTITUTE MARKET ABUSE ('SUSPECTED PERSON')	
Name	[For natural persons: the first name(s) and the last name(s).] [For legal persons: full name including legal form as provided for in the register of the country pursuant to the laws of which it is incorporated, where applicable, and Legal Entity Identifier (LEI) code in accordance with ISO 17442.]
National Identification Number	[Number and/or text]. [Where the National Identification Number is not applicable or known, provide a date of birth (for natural persons only) in the ISO 8601 format]
Address	[Full address (e.g. street, street number, postal code, city, state/province) and country.]
Information about the employment: — Place — Position	[Information about the employment of the suspected person, from information sources available internally to the reporting entity (e.g. account documentation in case of clients, staff information system in case of an employee of the reporting entity).]
Account number(s) and wallet address(es)	[Numbers of the cash account(s), any joint accounts or any Powers of Attorney on the account the suspected entity/person holds. Wallet address(es) involved in the transaction or suspected behaviour]
Client identifier	[In case the suspected person is a client of the reporting entity.]
Relationship with the issuer of the crypto-asset concerned	[Description of any corporate, contractual or organisational arrangements or circumstances or relationships]
SECTION 5 — ADDITIONAL INFORMATION	
Other information relevant to the report, depending on the activity	
[The following list is indicative and not exhaustive. Other information deemed useful by the reporting person may be provided where relevant to the STOR.] - the position of the suspected person (e.g. retail client, institutions), - the nature of the suspected entity's/person's intervention (on own account, on behalf of a client, validator of transactions in a distributed ledger system, other). - Where the suspected behaviour is conducted on a DLT, other relevant information may include: — whether the transaction passed through a public or private (encrypted) queue of transactions (i.e. mempool) before it was validated on the DLT; — whether the DLT is public (permissionless) or private (permissioned);	

- potential interactions with smart contracts, including specification of the contract address and the function called;
- the size of the suspected entity's/person's portfolio,
- the date on which the business relationship with the client started if the suspected entity/person is a client of the reporting person/entity,
- the type of activity of the trading desk, where available, of the suspected entity,
- trading patterns of the suspected entity/person. For guidance, the following are examples of information that may be useful:
 - trading habits of the suspected entity/person,
 - comparability of the size of the reported order/transaction with the average size of the orders submitted/transactions carried out by the suspected entity/person for the past 12 months,
 - habits of the suspected entity/person in terms of crypto-assets it has traded for the past 12 months, in particular whether the reported order/transaction relates to a crypto-asset which has been traded by the suspected entity/person for the past year.
- Other entities/persons known to be involved in the orders or transactions of which could constitute market abuse:
 - names,
- activity (e.g. executing orders on behalf of clients, dealing on own account, operating a trading platform, validating transactions.)

SECTION 6 — DOCUMENTATION ATTACHED

[List the supporting attachments and material together provided with this STOR].

Examples of such documentation are e-mails, recordings of conversations, order/transaction records, distributed ledger technology records, confirmations, broker reports, Powers of Attorney documents, and comment by media where relevant.

Where the detailed information about the orders/transactions/behaviours related to the functioning of the distributed ledger technology referred to in Section 2 of this template is provided in a separate annex, indicate the title of that annex.]

APPENDIX 27: COMMISSION IMPLEMENTING REGULATION (EU) 2024/2494**of 24 September 2024****laying down implementing technical standards for the application of
Regulation (EU) 2023/1114 of the European Parliament and of the Council
with regard to standard forms, templates and procedures for the cooperation
and exchange of information between competent authorities and EBA and
ESMA**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²²³, and in particular Article 96(3), third subparagraph, thereof,

Whereas:

- (1) Article 96(1) of Regulation (EU) 2023/1114 requires the competent authorities to cooperate closely with the European Securities and Markets Authority (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council²²⁴, and with the European Banking Authority (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council²²⁵.
- (2) Article 96(2) of Regulation (EU) 2023/1114 requires competent authorities to provide ESMA and EBA with all necessary information to carry out their duties, in accordance with Article 35 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council and with Article 35 of Regulation (EU) No 1093/2010 respectively.
- (3) Information should normally be exchanged in writing. However, oral communications should be possible in appropriate cases, including, in particular, before a written request for cooperation or exchange of information is sent, to provide information on an upcoming request for cooperation or exchange of information, or to discuss any issues that might make it difficult to comply with that request. In urgent cases, it should also be possible to orally communicate a request for cooperation or exchange of information, provided that such urgency is not due to a delay on the part of the submitting party.
- (4) Information that is not the subject of a specific request should be transmitted in accordance with Regulation (EU) 2023/1114, including on a voluntary basis, when the submitting body considers that information in its possession may be of use to another body. When transmitting unsolicited information, the submitting body

²²³ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

²²⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

²²⁵ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

should indicate the provision of Regulation (EU) 2023/1114 under which it transmits that information in the form set out in the relevant Annex.

- (5) A request should contain sufficient information about the subject matter of the cooperation or exchange of information and include the reasons for the request and its context, to enable the receiving body to easily and efficiently process the request. It should not be necessary for a submitting body to indicate the facts giving rise to the suspicion of infringement of Regulation (EU) 2023/1114 that prompted the request where the requested information is necessary for that body to fulfil its duties.
- (6) The procedure as well as the forms and templates used for the exchange of information and the provision of cooperation should ensure that any information exchanged or transmitted is kept confidential, and that rules with regard to the processing of personal data and the free movement of personal data are complied with.
- (7) This Regulation is based on the draft implementing technical standards developed by ESMA in close cooperation with EBA and submitted to the Commission.
- (8) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,
- (9) ESMA has not conducted open public consultations on the draft implementing technical standards on which this Regulation is based, nor has it analysed the potential related costs and benefits of introducing such standards, as to have done so would have been highly disproportionate in relation to the scope and impact of those standards, taking into account that this Regulation would only affect those authorities and entities and would not affect market participants,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means that ensure that the completeness, integrity and confidentiality of the information are maintained during the transmission;
- (2) 'submitting body' means the body submitting a notification, a request for information or cooperation, or providing unsolicited information;
- (3) 'receiving body' means the body receiving a notification, a request for information or cooperation, or unsolicited information.

Article 2

Contact points

1. Each competent authority shall designate a contact point for the purposes of cooperating and exchanging information pursuant to Article 96 of Regulation (EU) 2023/1114.

2. Competent authorities shall communicate the details of their contact points to ESMA and EBA by 27 November 2024 and keep EBA and ESMA informed of any changes to those details.
3. ESMA and EBA shall maintain and keep up-to-date a list of the contact points designated in accordance with paragraph 1.

Article 3

Means of communication

1. For the purposes of cooperation and exchange of information in accordance with Article 96(1) of Regulation (EU) 2023/1114, competent authorities and ESMA and EBA shall communicate in writing either by post or by electronic means, unless otherwise provided for in this Regulation.
2. When determining the most appropriate means of communication in any particular case, competent authorities, ESMA and EBA shall take due account of the following:
 - (a) confidentiality considerations;
 - (b) the time necessary for correspondence;
 - (c) the volume of material to be communicated;
 - (d) the ease of access to the information that is being exchanged.
3. The means of communication referred to in paragraph 1 shall ensure the completeness, integrity and confidentiality of the information during the transmission thereof.

Article 4

Notifications and requests for information or cooperation

1. Notifications and requests for information or cooperation shall be submitted in writing by post or by electronic means, using the form set out in Annex I. When a competent authority, ESMA or EBA makes a request for information or cooperation pursuant to Article 96 of Regulation (EU) 2023/1114, they shall use the standard form set out in Annex I to this Regulation. The submitting body shall send the notification or request to the contact point designated pursuant to Article 2.
2. When making a request for information or cooperation, the submitting body:
 - (a) may attach to the request any document or supporting material deemed necessary to support that request;
 - (b) may, in urgent cases, make the request orally, but that oral request shall subsequently be confirmed in writing without undue delay.

Article 5

Acknowledgement of receipt of notifications and requests

1. The receiving body shall send an acknowledgement of receipt to the submitting body as soon as possible and in any case within 5 working days of receipt of a notification or request made pursuant to Article 4, using the form set out in Annex II, and, where possible, indicate an estimated date of response.

2. Whenever it is not possible to indicate an estimated date of response, the receiving body shall indicate the frequency with which it will update the submitting body.

Article 6

Procedures for sending, processing and replying to a request for cooperation and exchange of information

1. The submitting body and the receiving body shall ensure that a request for cooperation or exchange of information is dealt with as soon as possible. They shall cooperate to resolve any difficulties that may arise in executing a request.
2. Where the submitting body attaches to the request for cooperation and exchange of information any document or supporting material in accordance with Article 4(2), point (a), and where such document or supporting material is not in an official language of the Member State of the receiving body, the submitting body shall also provide a translation of such document or supporting material, or a summary of such document or supporting material in a language customary in the sphere of international finance.
3. If the receiving body requests any clarification about a notification or request submitted in accordance with Article 4, it shall request further clarification promptly by any means.
4. The submitting body shall respond promptly to any request for clarification from the receiving body.
5. When replying to a request made in accordance with Article 4, the receiving body shall:
 - (a) use the form set out in Annex III;
 - (b) take all reasonable steps to provide the requested cooperation or information
 - (c) act without delay and in a manner which ensures that any necessary regulatory action can proceed expediently taking into account the complexity of the request concerned and whether it is necessary to involve third parties.
6. Where appropriate, the receiving body shall provide the submitting body with regular updates on the progress of a pending request, including updates on the revised estimated date of reply.
7. Where the receiving body becomes aware of circumstances that may lead to a delay in meeting the estimated date or a timeframe of reply, referred to in Article 5(1), by more than 10 working days, it shall inform the submitting body without undue delay.
8. Where the request justifies closer cooperation between the submitting and the receiving body or where the request has been marked as urgent, the bodies shall agree on the frequency and means of the closer cooperation.

Article 7

Unsolicited cooperation and exchange of information

For the purposes of any cooperation and exchange of information that is not the subject of a specific request, including any subsequent communications relating to it, the submitting body shall use the form set out in Annex IV.

*Article 8***Cooperation procedures**

1. Where ESMA or EBA are requested under Article 95(5) of Regulation (EU) 2023/1114 to coordinate an investigation or inspection with cross-border effect, ESMA or EBA may establish a temporary group on an ad hoc basis to include the competent authorities of the Member States affected by that investigation or inspection.
2. When participating in temporary groups referred to in paragraph 1, ESMA and EBA shall consult each other regularly.

*Article 9***Referral to ESMA or to EBA**

Referral to ESMA pursuant to Article 95(6) of Regulation (EU) 2023/1114 or to EBA pursuant to Article 95(7) of that Regulation of a rejection or absence of action within a reasonable timeframe shall be made in writing using the form set out in Annex I and shall include:

- (a) a copy of the request for cooperation and exchange of information and any reply received;
- (b) the reasons for referring to ESMA or to EBA the rejection or absence of action.

*Article 10***Restrictions and permissible uses of information**

1. The receiving body shall not disclose the existence and content of a request for cooperation or exchange of information pursuant to Article 96 of Regulation (EU) 2023/1114 unless the submitting body has given its express consent to such disclosure. Where such consent is not given and where it is not reasonably practicable to comply with the request without disclosing its existence or content, the submitting body shall withdraw or suspend its request until it is able to provide such consent to disclosure.
2. The submitting body that received information within the scope of this Regulation shall use it solely for the performance of its duties and the exercise of its functions or for the purposes of securing compliance with or enforcement of Regulation (EU) 2023/1114, including initiating, conducting, or assisting in, criminal, administrative, civil or disciplinary proceedings resulting from a breach of that Regulation.

*Article 11***Entry into force**

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

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

Done at Brussels, 24 September 2024.

ANNEX I

Form for a request for cooperation or exchange of information

Request for cooperation and exchange of information

Reference number:

Date:

General information

FROM:

Member State:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Receiving Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

In accordance with Article 4 of Implementing Regulation (EU) 2024/2494 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the cooperation and exchange of information between competent authorities and EBA and ESMA, your cooperation is sought in relation to the matter(s) specified

below.

Type of request or notification

Please tick the appropriate box(es)

- ☐ notification to ESMA and EBA about requests of assistance between national competent authorities with regard to on-site inspections or investigations pursuant to Article 95(4) of Regulation (EU) 2023/1114;
- ☐ request to ESMA and EBA to coordinate the investigation or inspection pursuant to Article 95(5) of Regulation (EU) 2023/1114;
- ☐ communication to ESMA of situations of rejected or not acted upon requests for cooperation or exchange of information, pursuant to Article 95(6) of Regulation (EU) 2023/1114;
- ☐ communication to EBA of situations of rejected or not acted upon requests for cooperation or exchange of information, pursuant to Article 95(7) of Regulation (EU) 2023/1114;
- ☐ notification to ESMA or to EBA of precautionary measures pursuant to Article 102 of Regulation (EU) 2023/1114;
- ☐ notification to ESMA of product intervention measures pursuant to Article 105(3) and (4) of Regulation (EU) 2023/1114, for crypto-asset;
- ☐ notification to EBA of product intervention measures pursuant to Article 105(3) of Regulation (EU) 2023/1114, for asset-referenced tokens and e-money tokens;
- ☐ communication to ESMA and EBA of information on the complaints-handling procedures pursuant to Article 108(2) of Regulation (EU) 2023/1114;
- ☐ communication to ESMA of data and information to compile the Register of crypto-asset white papers, of issuers of asset-referenced tokens and e-money tokens, and of crypto-asset service providers, pursuant to Article 109(1) of Regulation (EU) 2023/1114;
- ☐ notifications to ESMA of the measures listed in Article 94(1), point (b), (c), (f), (l), (m), (n), (o) or (t), and of any public precautionary measures taken pursuant to Article 102, in accordance with Article 109(6) of Regulation (EU) 2023/1114;
- ☐ communication to ESMA for the establishment of the ESMA Register on non-compliant entities providing crypto asset services, pursuant to Article 110 of Regulation (EU) 2023/1114;
- ☐ reporting of administrative penalties and other administrative measures by competent authorities to ESMA and EBA, pursuant to Article 115 of Regulation (EU) 2023/1114;
- ☐ Any other notification, provision of information or request for information relevant in accordance with Article 96 of Regulation (EU) 2023/1114.

Information on the notification or reasons for the request

The notification/request concerns [*choose 'notification' or 'request' according to the selection made above*]

...

...

...

[insert the description of the subject matter of the notification or request, the purpose for which the cooperation or exchange of information is sought or facts underlying the request for coordinating an investigation and explanation for its helpfulness]

Further to

...

...

...

[if applicable, insert details of the previous notification or request in order to enable it to be identified]

The information included in this notification/request *[choose the correct option]* shall be kept confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and shall be subject to the requirements of professional secrecy in accordance with Article 100 of Regulation (EU) 2023/1114.

Any personal data provided shall be processed by ESMA or EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of those Regulations.

Yours sincerely,

[signature]

ANNEX II

Form for the acknowledgement of receipt of a notification or request for cooperation or exchange of information

Acknowledgement of receipt of a notification or request for cooperation or exchange of information

Reference number:

Date:

FROM:

Receiving Body

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*Following your notification/request *[insert reference to notification/request]*, we hereby acknowledge receipt of your notification / request for cooperation / request for information *[choose the right option]* on *[insert date]*☐ The *[receiving body]* intends to respond on the/within *[insert estimated date or timeframe by when a response is expected to be provided]*☐ The *[receiving body]* intends to provide updates on the pending request *[insert periodicity of the updates to be]*

given]

[In case it is not possible for the receiving body to indicate an estimated date or timeframe for the response, please indicate the frequency with which the receiving body will update the submitting body]

☐ The [receiving body] will not be capable of responding within the deadlines set out by the [submitting body] for the following reasons [please, specify which exception/s is/are applicable in your situation]:

...

...

...

[In case the receiving body is not capable of responding within the deadlines set out in Article 5 of Implementing Regulation (EU) 2024/2494, please provide reasons and the estimated date of response]

Any personal data provided shall be processed by ESMA or EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX III

Form for the reply to a request for cooperation or exchange of information

Reply to a request for cooperation or exchange of information

Reference number:

Date:

FROM:

Member State:

Receiving body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*Following your request *[insert reference to request]*, we hereby acknowledge receipt of your request for cooperation or request for information on *[insert date]*.**Information gathered**

...

...

...

[If the information has been gathered, please set out the information here or provide an explanation of how it will be provided]

The information provided is confidential and is disclosed to *[Insert name of the submitting body]* pursuant to *[Insert provision of the applicable sectoral legislation]* and on the basis that the information shall remain confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and Article 100 of Regulation (EU) 2023/1114.

The *[Insert name of the submitting body]* shall observe the requirements of Article 10 of Implementing Regulation (EU) 2024/2494 with respect to the permissible uses of that information.

Where the *[Insert name of the submitting body]* intends to use or disclose information provided in this reply for purposes other than those stated in the request but relating to the its tasks in accordance with Regulation (EU) 2023/1114, *[Insert name of the submitting body]* shall notify *[Insert name of the receiving body]* which has 10 working days to object to such use or disclosure, or where necessary to indicate a precise time limit by which it will be able to provide such feedback.

Where the *[Insert name of the submitting body]* intends to use or disclose information provided in this reply for purposes outside the scope of Regulation (EU) 2023/1114, it shall notify *[Insert name of the receiving body]* and unless the exception referred to in Article 100(2) of Regulation (EU) 2023/1114 applies, shall obtain the prior consent of *[Insert name of the receiving body]*. Where *[Insert name of the receiving body]* consents to such use or disclosure of the information, it may subject it to certain conditions.

Any personal data provided shall be processed by ESMA and EBA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council and by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. In particular, ESMA, EBA and the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of these Regulations.

Yours sincerely,

[signature]

ANNEX IV

Form for provision of unsolicited exchange of information

Unsolicited exchange of information

Reference number:

Date:

FROM:

Submitting Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

TO:

Member State:

Receiving Body:

Address:

(Contact details of the contact point designated in accordance with Article 2 of Implementing Regulation (EU) 2024/2494)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

In accordance with Article 9 of Implementing Regulation (EU) 2024/2494, we are providing the following information we believe may be of assistance in carrying out your duties.

Information provided

...

...

...

[Please set out the details of the information provided, including if relevant a description of any supporting documents or material attached.]

The information provided is confidential and is disclosed to *[Insert name of the submitting body]* pursuant to *[Insert provision of the applicable sectoral legislation]* and on the basis that the information shall remain confidential in accordance with Article 10 of Implementing Regulation (EU) 2024/2494 and Article 100 of Regulation (EU) 2023/1114.

The *[Insert name of the receiving body]* shall observe the requirements of Article 10 of Implementing Regulation (EU) 2024/2494 with respect to the permissible uses of that information, and of Article 101 of Regulation (EU) 2023/1114 with respect to the processing and transfer of personal data.

Yours sincerely,

[signature]

APPENDIX 28: COMMISSION IMPLEMENTING REGULATION (EU) 2024/2545**of 24 September 2024****laying down implementing technical standards for the application of
Regulation (EU) 2023/1114 of the European Parliament and of the Council
with regard to standard forms, templates and procedures for the cooperation
and exchange of information between competent authorities**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²²⁶, and in particular Article 95(11), third subparagraph, thereof,

Whereas:

- (1) Markets in crypto-assets are inherently cross-border. It is therefore necessary to ensure that competent authorities in different Member States can cooperate and exchange information that enables them to effectively supervise issuers and offerors of crypto-assets and crypto-asset service providers operating across the Union. Competent authorities should have access to the information necessary to allow the effective discharge of their supervisory, investigative and enforcement duties and functions.
- (2) To ensure that competent authorities are able to cooperate and to exchange information in an efficient and timely manner and to provide assistance to each other for the purposes of Regulation (EU) 2023/1114, it is appropriate to set out common procedures, forms and templates for the submission of requests for assistance, acknowledgments of receipts and replies to such requests.
- (3) Information should normally be exchanged in writing. However, oral communications should be possible in appropriate cases, including, in particular, before a written request for cooperation or exchange of information is sent, to provide information on an upcoming request for cooperation or exchange of information, or to discuss any issues that might make it difficult to comply with that request. In urgent cases, it should also be possible to orally communicate a request for cooperation or exchange of information, provided that such urgency is not due to a delay on the part of the requesting party.
- (4) Urgent requests for cooperation or exchange of information should be allowed where a prompt response is required by the requesting authority in order to stop significant harm or to prevent potential significant harm to investors or to the stability of and trust in the financial system. This includes cases where, for instance, the competent authority of a host Member State recently obtained evidence showing that a crypto-asset service provider authorised in another Member State is marketing crypto-assets which are not compatible with the provisions on protection of clients or retail holders set out in Article 102 of Regulation (EU) 2023/1114. Urgent requests should also be allowed where a competent authority of a host Member State has received relevant complaints relating to a crypto-asset service provider authorised in another Member State or where a competent authority has reasons to believe that a crypto-asset service provider

²²⁶ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

operating in its jurisdiction is at risk of insolvency, which may affect clients in its jurisdiction or the stability of financial markets.

- (5) Regulation (EU) 2023/1114 establishes that competent authorities are to cooperate with each other, exchange information and render assistance to each other.
- (6) Unsolicited transmissions of information should be provided for in accordance with Regulation (EU) 2023/1114, including on a voluntary basis when the competent authority of a Member State considers that information in its possession may be of use to another competent authority. When transmitting unsolicited information, the competent authority should ensure that it has a legal basis to do so, and indicate it in the form set out in the relevant Annex.
- (7) A request for assistance pursuant to Article 95 of Regulation (EU) 2023/1114 should provide sufficient information about the subject matter of the request, including the reason for the request and its context, to enable the requested authority to process the request efficiently and expediently. It should not be necessary for a requesting authority to indicate the facts giving rise to the suspicion of infringement that prompted the request where the requested information is necessary for that authority to fulfil its duties.
- (8) The procedures for cooperation should allow and facilitate the communication, consultation and interaction between the requesting authority and the requested authority, to ensure an efficient processing of requests for information or assistance. These procedures should also allow competent authorities to provide each other with feedback on the usefulness of the information or assistance received, on the outcome of the case in relation to which the assistance was sought, and on any problems encountered in providing such information or assistance.
- (9) The procedures and forms for the exchange of information and assistance should ensure the confidentiality of the information exchanged or transmitted and compliance with the rules on the protection of the rights of individuals with regard to the processing of personal data and on the free movement of such data.
- (10) This Regulation is based on the draft implementing technical standards developed by the European Securities and Markets Authority (ESMA) in close cooperation with European Banking Authority (EBA) and submitted to the Commission.
- (11) ESMA has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²²⁷.
- (12) ESMA has not conducted open public consultations on the draft implementing technical standards on which this Regulation is based, nor has it analysed the potential related costs and benefits of introducing such standards, as to have done so would have been highly disproportionate in relation to the scope and impact of those standards, taking into account that this Regulation would only affect competent authorities and entities and would not affect market participants,

HAS ADOPTED THIS REGULATION:

²²⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

Article 1

Definition

For the purposes of this Regulation, 'electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means that ensure that the completeness, integrity and confidentiality of the information are maintained during the transmission.

Article 2

Contact points

1. Each competent authority shall designate a contact point for the purposes of the communication of requests for cooperation or exchange of information pursuant to Article 95 of Regulation (EU) 2023/1114.
2. Competent authorities shall communicate the details of their contact points to ESMA by 15 January 2025 and shall provide updated information to ESMA as necessary.
3. ESMA shall maintain and keep up to date a list of the contact points designated by competent authorities pursuant to paragraph 1.

Article 3

Request for cooperation or exchange of information

1. A requesting authority shall make a request for cooperation or exchange of information in writing, by post or by electronic means. It shall address the request to the contact point designated pursuant to Article 2.
2. When requesting cooperation or the exchange of information, a competent authority shall use the form set out in Annex I and shall:
 - (a) specify the details of the relevant information requested;
 - (b) identify, where appropriate, issues relating to the confidentiality of the information requested.

Article 4

Acknowledgment of receipt of requests for cooperation or exchange of information

1. Within 5 working days of receipt of a request for cooperation or exchange of information, the requested authority shall send an acknowledgement of receipt, by post or by electronic means, to the contact point designated pursuant to Article 2, unless otherwise specified in the request. The acknowledgement of receipt shall be made by using the form set out in Annex II and shall include, where possible, an indication of the estimated date or timeframe in which a reply is expected to be provided.
2. Where it is not possible to indicate an estimated date or timeframe for the reply, the requested authority shall indicate the frequency with which it will update the requesting authority.

*Article 5***Reply to a request for cooperation or exchange of information**

1. The requested authority shall reply to a request for cooperation or exchange of information in writing, by post or by electronic means. The reply shall be addressed to the contact point designated pursuant to Article 2, unless otherwise specified in the request. Where the requested authority requires additional information in relation to the request for cooperation or exchange of information, it shall request further clarifications promptly by any means.
2. The requested authority shall reply to the request for cooperation or exchange of information using the form set out in Annex III and shall:
 - (a) take all reasonable steps within the scope of its powers to provide the requested information or assistance;
 - (b) act without undue delay, taking into account the complexity of the request and the necessity to involve third parties or another competent authority.
3. Where the requested authority refuses to act, in full or in part, upon a request for cooperation or exchange of information, it shall inform the requesting authority as soon as possible of its decision in writing, either by post or by electronic means, indicating which of the grounds for refusal set out in Article 95(2) of Regulation (EU) 2023/1114 it has relied upon.

*Article 6***Urgent requests for cooperation or exchange of information**

1. By way of derogation from Articles 4 and 5, the procedure in this Article shall apply to urgent requests for cooperation or exchange of information.
2. The requesting authority shall specify, in a clear manner, the reasons for the urgency of the request, using the form set out in Annex I.
3. By way of derogation from paragraph 2, the requesting authority may initially communicate the information orally where this is justified by the concrete circumstances that prompted the request. That oral submission shall be subsequently confirmed in writing and transmitted to the requested authority without undue delay using the form set out in Annex I, unless the requested authority agrees otherwise.
4. Within 3 working days of receipt of an urgent request for cooperation or exchange of information, the requested authority shall send an acknowledgement of receipt in writing, by post or by electronic means, to the contact point designated pursuant to Article 2, unless otherwise specified in the request, using the form set out in Annex II.
5. If the requested authority disagrees with the urgency of the request, it shall inform the requesting authority thereof together with the acknowledgement of receipt, detailing its reasons in a clear manner and using the form set out in Annex II. In such case, the request shall not be treated as an urgent request for cooperation or exchange of information.
6. Where the requested authority refuses to act, in full or in part, upon an urgent request for cooperation or exchange of information, it shall inform the requesting authority as soon as possible of its decision in writing, by post or by electronic means, indicating which of the grounds for refusal set out in Article 95(2) of Regulation (EU) 2023/1114 it has relied upon.

7. The requested authority shall provide a precise and comprehensive reply as soon as possible and no later than 10 working days from the receipt of the request. The reply shall be provided in writing, by post or by electronic means, using the form set out in Annex III, unless the requesting authority agrees otherwise.

8. Where the requested authority is unable to provide the requesting authority with a precise and comprehensive reply within 10 working days, it shall, by way of derogation from paragraph 7, provide a partial reply within that deadline. In that case, the requested authority shall provide a precise and comprehensive reply within 20 working days from the date of the receipt of the original request. Where the requested authority is unable to gather all necessary information within that deadline, it shall provide to the requesting authority an explanation of the relevant constraints.

Article 7

Procedures for sending and processing a request for cooperation or exchange of information

1. The requesting authority and the requested authority shall communicate using the most expedient means, taking due account of the following:

- (a) confidentiality considerations;
- (b) correspondence times;
- (c) the volume of material to be communicated;
- (d) the ease of access to the information by the requesting authority.

The requesting authority shall reply promptly to any request for clarifications from the requested authority.

2. Where a reply cannot be provided by the estimated date or timeframe referred to in Article 4(1), the requested authority shall give a new estimated date or timeframe to the requesting authority explaining the reasons for the delay, using the same means used to acknowledge receipt of the request.

3. The requested authority and the requesting authority shall cooperate in order to resolve any difficulties that may arise in executing a request.

Article 8

Procedure for requests concerning the taking of a statement from a person

1. Where the requesting authority includes within its request the taking of a statement from any person, the requested authority and the requesting authority shall, subject to existing legal limitations or constraints and any differences in procedural requirements, assess and take into account the following:

- (a) the rights of the persons from whom the statements are to be taken including, where applicable, any self-incrimination issues;
- (b) the role and the nature of participation of the staff of the requested authority and requesting authority in the taking of the statement, in particular whether the participation is active or passive;
- (c) whether the person from whom the statement is to be taken has the right to be assisted by a legal representative and, if so, the scope of the legal representative's assistance during the taking of the statement, including in relation to any records or report of the statement;

- (d) whether the statement is to be taken on a voluntary or mandatory basis, where that distinction exists;
 - (e) whether, based on the information available at the time of the request, the person from whom the statement is to be taken is a witness or a suspect, where that distinction exists;
 - (f) whether, based on the information available at the time of the request, the statement could be or is intended to be used in criminal proceedings;
 - (g) the admissibility of the statement in the requesting authority's jurisdiction;
 - (h) the recording of the statement and the applicable procedures, including whether the statement will be contemporaneous, summarised in written minutes or recorded by audio or audiovisual means;
 - (i) procedures on the certification or confirmation of the statement by the persons providing the statement, including whether such certification or confirmation takes place after the statement is taken; and
 - (j) the procedure for the transmission of the statement to the requesting authority, including the format of and timing for such transmission.
2. The requested authority and the requesting authority shall ensure that arrangements are in place which allow their staff to proceed efficiently and to agree on the following:
- (a) planning of dates;
 - (b) the list of questions to be asked to the person from whom the statement is to be taken;
 - (c) travelling arrangements, including ensuring that the requested authority and the requesting authority are able to meet to discuss the matter prior to the taking of the statement;
 - (d) language arrangements;
 - (e) any other practical issue that might arise in connection to taking of a statement.

Article 9

Procedure for requests concerning an investigation or an on-site inspection

1. Where a request to carry out an investigation or an on-site inspection is made pursuant to Article 95(4) of Regulation (EU) 2023/1114, the requesting authority and the requested authority shall consult each other on the best way to give useful effect to the request, taking into account Article 95(4), second subparagraph, points (a) to (d), of Regulation (EU) 2023/1114, including on the merits of conducting a joint investigation or a joint on-site inspection.
2. The requested authority shall keep the requesting authority informed of the progress of the investigation or on-site inspection and shall transmit its findings promptly to the requesting authority.
3. In deciding whether to initiate a joint investigation or a joint on-site inspection, the requesting authority and the requested authority shall take into account at least the following:
 - (a) the content of any requests for assistance received from the requesting authority including any suggestion on the appropriateness of carrying out a joint investigation or a joint on-site inspection;

- (b) whether the competent authorities are separately conducting their own inquiries into a matter with cross-border implications and whether that matter would be more suitable for joint action;
- (c) the legal and regulatory framework in each of their jurisdictions as well as the potential constraints and legal limitations on the conduct of any joint investigation or joint on-site inspection and on any proceedings that may follow, including any issues relating to the principle of ne bis in idem;
- (d) the management and direction needed for the investigation or on-site inspection;
- (e) the allocation of resources and appointment of staff in charge of carrying out investigations or on-site inspections;
- (f) the possibility of establishing a joint action plan and a time schedule for the work to be undertaken by each competent authority;
- (g) the determination of actions to be taken, jointly or individually, by each competent authority;
- (h) the mutual sharing of information gathered and reporting on the outcomes of any individual actions taken;
- (i) other case specific issues.

4. Where the requesting authority and the requested authority decide to carry out a joint investigation or a joint on-site inspection, they shall:

- (a) agree on procedures for its conduct and conclusion;
- (b) engage in an ongoing dialogue to coordinate the information gathering and joint fact finding;
- (c) work closely and cooperate with each other on the conduct of the joint investigation or the joint on-site inspection;
- (d) provide mutual assistance on subsequent enforcement proceedings to the extent legally permitted, including coordinating any proceedings or other enforcement action related to the outcome of the joint investigation or the joint on-site inspection, whether administrative, civil or criminal, or, where appropriate, the prospects of a settlement;
- (e) identify the specific legal provisions governing the subject matter of the joint investigation or of the joint on-site inspection.

Article 10

Unsolicited provision of information

Where a competent authority has information that it believes would assist another competent authority for the purposes of carrying out its duties under Regulation (EU) 2023/1114, it shall transmit that information in writing by post or electronic means to the other competent authority without undue delay, using the form set out in Annex IV, and specify the legal basis for the provision of the information.

Article 11

Restrictions and permissible use of information

1. The requesting authority and the requested authority shall include an appropriate confidentiality warning in any request for assistance, reply to a request for assistance or transmission of unsolicited information in accordance with the forms set out in the relevant Annex.
2. Where, in order to execute the request, the requested authority is required to disclose the fact that the requesting authority has made a request, it shall disclose the request after having discussed the nature and extent of the disclosure required with the requesting authority and after having obtained the consent of that competent authority to such disclosure. Where the requesting authority does not provide its consent to the disclosure, the requested authority shall not act upon the request, and the requesting authority may withdraw or suspend its request until it is able to provide such consent to disclosure.
3. Information received in accordance with Article 10 shall be used solely for the purposes of securing compliance with or enforcement of the provisions of Regulation (EU) 2023/1114, including initiating, conducting or assisting in criminal, administrative, civil or disciplinary proceedings resulting from a breach of the provisions of that Regulation.

Article 12

Entry into force

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

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

Done at Brussels, 24 September 2024.

ANNEX I

FORM FOR REQUEST FOR COOPERATION OR EXCHANGE OF INFORMATION

Request for cooperation or exchange of information

Reference number:

Date:

General information

FROM

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

TO

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*

In accordance with Article 3 your input is sought in relation to the matter(s) set out in further detail below.

I would be grateful to receive a response to the above request within *[provide timeframe based on the type of request]* from the receipt of this request.

Type of Request	
<i>Please tick the appropriate box(es)</i>	
Supervisory activities (provision of information, taking of a statement)	☐
Investigation	☐
On-site inspection	☐
	☐
Urgency of Request	
<i>Please tick the appropriate box(es)</i>	
Non-urgent request	☐
Urgent request	☐
The [requesting authority] requests the [requested authority] to consider this request as urgent for the following reasons:	
...	
...	
...	
<i>[please provide, in a clear manner, the reasons underlying the urgency of the request, including if the request was initially made orally]</i>	
Reasons for the Request	
...	
...	
...	
<i>[insert provision(s) of the sectoral legislation i) under which the requesting authority is competent to deal with the matter and ii) which may potentially be infringed.]</i>	
The request concerns cooperation or exchange of information on	
...	
...	

...

[insert the description of the subject matter of the request, the purpose for which the cooperation or exchange of information is sought, facts underlying the investigation which form the basis of the request and explanation of how the reply to the requested information or assistance will be useful for fulfilling the duties under Regulation (EU) 2023/1114 of the European Parliament and of the Council]²²⁸

Further to

...

...

...

[if applicable, insert details of any previous request in order to enable it to be identified]

Supervisory Activities (provision of information, taking of a statement)

Provision of information

Please provide a detailed description of the specific information sought with reasons why that information will be of assistance and, if known, a list of the persons who might possess the information sought or the places where such information might be obtained.

...

...

...

If the request concerns information relating to a transaction or order in a specific crypto-asset, please provide the following information.

Product ID:

...

[insert precise description of the crypto-asset, including the product identifier in accordance with Commission Delegated Regulation establishing technical standards adopted pursuant to Article 68(10)(b) of Regulation (EU) 2023/1114]

Person ID:

...

[insert the identity of any person connected with the transaction or order, including a person dealing in the crypto-asset or on whose behalf the dealing is considered to have taken place. Where available, include any applicable identification code, such as an LEI code or client Id as under Regulation (EU) No 600/2014 of the European

²²⁸ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>).

Parliament and of the Council²²⁹]

Dates:

...

[insert the dates between which transactions or orders in those crypto-assets took place including in the case of a significant period of time, reasons why the entirety of the time period is necessary]

If the request concerns information relating to the business or activities of a person, please provide information that makes it possible to identify that person.

...

...

...

If there are special considerations regarding the sensitivity of the information sought, please provide an indication of that sensitivity and any special precautions that have to be taken in collecting the information due to considerations relating to the investigation. Please also specify whether the requested authority may reveal the identity of the requesting authority.

...

...

...

...

Please provide any additional information that is considered relevant.

...

...

...

[For example, whether the requesting authority has been or will be in contact with any other authority or law enforcement agency in the Member State of the requested authority in relation to the subject matter of the request or with any other authority which, as far as the requesting authority is aware, has an active interest in the subject matter of the request]

Taking of a statement

Please indicate:

²²⁹ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84, ELI: <http://data.europa.eu/eli/reg/2014/600/oj>).

(a) Statement under:

(i) oath	☐
(ii) affirmation	☐
(iii) in writing	☐

(b) Basis of the statement:

(i) voluntary	☐
(ii) mandatory	☐

(c) Need and purpose of the taking of a statement and, where applicable, of requiring a statement under oath or affirmation:

...

...

...

(d) Name of the persons from whom the statement is to be obtained:

...

...

...

[insert details of the persons from which the statement will be taken to enable the requested authority to begin the summoning process where applicable]

(e) Detailed description of the information sought, including a preliminary list of questions (if available at the time of the request).

...

...

...

(f) Any additional information that is considered relevant:

...

...

...

[For example, whether the requesting authority's staff is requesting participation in the taking of the statement, details of the participating officials of the requesting authority, where appropriate, a description of any legal and

procedural requirements that must be complied with to ensure the admissibility of the statements made in the jurisdiction of the requesting authority]

The opening of an investigation

If the request concerns the opening of an investigation on behalf of the requesting authority, please provide information to enable the requested authority to assess whether it may have an interest in entering into a joint investigation, including the requesting authority's proposal for the investigation, its reasoning for opening the investigation and the perceived benefits to that authority.

...

...

...

[including all relevant information that the requested authority needs to be able to provide the necessary assistance by opening an investigation or a joint investigation, as appropriate]

The opening of an on-site inspection

If the request concerns the opening of an on-site inspection on behalf of the requesting authority, please provide information to enable the requested authority to assess whether it may have an interest in entering into a joint on-site inspection, including the requesting authority's proposal for the inspection, its reasoning for the inspection and the perceived benefits to that authority.

...

...

...

[including all relevant information that the requested authority needs to provide the necessary assistance by opening an on-site inspection or a joint on-site inspection, as appropriate]

The information included in this request shall be kept confidential in accordance with Article 11 of this Regulation and Article 100 of Regulation (EU) 2023/1114. The requirements set out in Article 101 of Regulation (EU) 2023/1114 shall be observed with respect to any personal data included in this request. In particular, the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of Regulation (EU) 2016/679 of the European Parliament and of the Council²³⁰.

Yours sincerely,

[signature]

²³⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

ANNEX II

FORM FOR ACKNOWLEDGEMENT OF RECEIPT

Acknowledgement of receipt

Reference number:

Date:

FROM

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

TO

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*,

We hereby acknowledge receipt of your request for cooperation or exchange of information *[insert reference to the request]* on *[insert date]*.

☐ The *[requested authority]* will not be capable of responding within the deadline indicated in the request for the following reasons *[please specify which exception(s) is/are applicable in your situation]*:

...

...

...

[In case the requested authority is not capable of responding within the deadline indicated in the request, please provide reasons and the estimated date of response]

- ☐ The [requested authority] considers that the request received from the [requesting authority] on [insert date] is not urgent for the following reasons:

...

...

...

[In case the requested authority disagrees with the urgency of the request, please provide reasons within the deadline set out in Article 6(3)]

Any personal data provided shall be processed by the relevant competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council²³¹. In particular, the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of that Regulation.

Yours sincerely,

[signature]

²³¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>)

ANNEX III

FORM FOR REPLY TO A REQUEST FOR COOPERATION OR EXCHANGE OF INFORMATION

Reply to request for cooperation or exchange of information

Reference number:

Date:

FROM

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

TO

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*,

In accordance with Article 5, your request dated *[dd.mm.yyyy]* with reference number *[insert reference number]* has been processed by us.

Information gathered

...

...

...

[If the information has been gathered, please set out the information here or provide an explanation of how it will be provided]

The information provided is confidential and is disclosed to *[Insert name of the requesting authority]* pursuant to the *[insert provision of the applicable sectoral legislation]* and on the basis that the information shall remain confidential in accordance with Article 11 of this Regulation and Article 100 of Regulation (EU) 2023/1114 of the European Parliament and of the Council²³².

The *[insert name of the requesting authority]* shall observe the requirements set out in Article 11 with respect to the permissible uses of the information provided, and in Article 101 of Regulation (EU) 2023/1114 with respect to personal data processing and transfer. In particular, the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of Regulation (EU) 2016/679 of the European Parliament and of the Council²³³.

Where the *[insert name of the requesting authority]* intends to use or disclose information provided in this reply for a purpose different than the one stated in the request but falling under the scope of Regulation (EU) 2023/1114, *[insert name of the requesting authority]* shall notify *[insert name of the requested authority]* which has 10 working days to object to such use or disclosure, or where necessary to indicate a precise time limit by which they will be able to provide such feedback.

Where the *[insert name of the requesting authority]* intends to use or disclose information provided in this reply for any purpose outside the scope of Regulation (EU) 2023/1114, it shall notify *[insert name of the requested authority]* and, unless the exception set out in Article 100(2) of Regulation (EU) 2023/1114 applies, shall obtain the prior consent of *[insert name of the requested authority]*. Where *[insert name of the requested authority]* consents to such use or disclosure, it may subject it to certain conditions.

Yours sincerely,

[signature]

²³² Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>).

²³³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>)

ANNEX IV

FORM FOR UNSOLICITED PROVISION OF INFORMATION

Unsolicited provision of information

Reference number:

Date:

FROM

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

TO

Member State:

Competent Authority:

Address:

(Contact details of the contact point)

Name:

Telephone:

Email:

Dear *[insert appropriate name]*,

In accordance with Article 10, we are providing the following information we believe may be of assistance in carrying out your duties.

Information provided

...

...

...

[Please set out the details of the information here, including if relevant a description of any supporting documents or material attached]

The information provided is confidential and is disclosed to *[insert name of the competent authority receiving the information]* pursuant to Article 95 of Regulation (EU) 2023/1114 of the European Parliament and of the Council²³⁴ and on the basis that the information shall remain confidential in accordance with Article 11 of this Regulation and Article 100 of Regulation (EU) 2023/1114.

The *[insert name of the competent authority receiving the information]* shall observe the requirements of the Article 11 with respect to the permissible uses of that information, and of Article 101 of Regulation (EU) 2023/1114 with respect to personal data processing and transfer. In particular, the relevant competent authorities shall ensure that all relevant information on the processing of personal data is provided to data subjects in accordance with Section 2 'Information and access to personal data' of Chapter III 'Rights of the data subject' of Regulation (EU) 2016/679 of the European Parliament and of the Council²³⁵.

Where the *[insert name of the competent authority receiving the information]* intends to use or disclose information provided in this reply for purposes different than those stated in Article 11(3), it shall notify *[insert name of the competent authority providing the information]* and, unless the exception referred to in Article 100(2) of Regulation (EU) 2023/1114 applies, shall obtain the prior consent of *[insert name of the competent authority providing the information]*. Where *[insert name of the competent authority providing the information]* consents to such use or disclosure of the information, it may subject it to certain conditions.

Yours sincerely,

[signature]

²³⁴ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>).

²³⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>)

APPENDIX 29: COMMISSION IMPLEMENTING REGULATION (EU) 2024/2861**of 12 November 2024****laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to the technical means for the appropriate public disclosure of inside information and for delaying the public disclosure of that information**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²³⁶, and in particular Article 88(4), third subparagraph, thereof,

Whereas:

- (1) Since the publication of inside information as referred to in Article 87 of Regulation (EU) 2023/1114 should reach as many investors as possible and be verifiable, issuers, offerors and persons seeking admission to trading should disseminate that information via media and publish it on their websites. To promote its effective distribution, the inside information published on the website of issuers, offerors, and persons seeking admission to trading should be downloadable to permit local storage and facilitate further dissemination of that information by third parties.
- (2) To facilitate access to information, the website should enable users to access the inside information on a non-discriminatory basis and free of charge and to locate the inside information in an easily identifiable dedicated section. To enable users to easily verify the whole history of disclosures of inside information, each publication on the website should indicate the date and time of the disclosure, and publications should be organised in a chronological order. Given the cross-border nature of crypto-asset trading, it is essential that language barriers do not limit the access to the published information. Issuers, offerors, and person seeking admission to trading should therefore publish the inside information on their website in the language or languages in which the crypto-asset white paper is drawn up and, where feasible, a language customary in the sphere of international finance. To facilitate the active distribution of the inside information, the website of the issuer, the offeror, or the person seeking admission to trading should enable investors to receive push notifications or alerts on any new publication relating to inside information on an opt-in basis.
- (3) Given the increasing importance of social media and web-based platforms in conveying information in relation to crypto assets, issuers, offerors and persons seeking admissions to trading may also use social media or web-based platforms to disseminate inside information when they appear to be the media which are reasonably relied upon by the public. To ensure that the inside information is disseminated to a public as wide as possible, issuer, offerors, or persons seeking admission to trading should consider disseminating the information through more than one medium or type of medium whenever dissemination via only a single medium is not sufficient. When assessing whether a medium is reasonably relied upon by the public, issuer, offerors, or persons seeking admission to trading should consider that the use of only one medium

²³⁶ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

or type of medium with a limited reach should not be considered as reasonably relied upon by the public. This could be, for example, the case of dissemination through a social media platform with a limited number of users.

- (4) To further facilitate access to the publication of the inside information, any publication of that information on social media or the web-based platforms should contain a link to the website where the inside information is published. Publication on social media and on web-based platforms should occur in line with the requirements for the publication of that information the website of the issuer, offeror, or person seeking admission to trading, including access to information on a non-discriminatory basis. Only those platforms that are open to the public should be considered to ensure access on a non-discriminatory basis for disclosures in social media and web-based platforms. While registration requirements are acceptable, invitation-only media would not qualify as non-discriminatory.
- (5) To facilitate the centralisation of inside information, such information relating to issuers or offerors whose crypto-assets are traded on a trading platform may also be posted on the website of the trading platform, when the trading platform allows to do so. To ensure consistency with the disclosure made by the issuer, the offeror, or the person seeking admission to trading, the publication on the trading platforms website should include a link to the webpage of the website of the issuer, the offeror, or the person seeking admission to trading where the information was originally disclosed.
- (6) In order to enable competent authorities to carry out expediently any necessary reviews or investigations linked to dissemination of inside information or possible market abuse cases and to ensure that, where needed, competent authorities may rapidly contact persons in charge of the dissemination of inside information, it is necessary that such persons within the issuer, offerors and persons seeking admission to trading for crypto-assets are identified with information on their name, surname and position within the relevant entity.
- (7) To ensure that issuers, offerors, and persons seeking admission to trading are able to comply with their obligation to inform their competent authorities that the disclosure of the inside information is delayed, as laid down in Article 88(3) of Regulation (EU) 2023/1114, the technical means for delaying the public disclosure of inside information should ensure that key information about the process for delaying the disclosure of the inside information is recorded.
- (8) To ensure the integrity and confidentiality of the inside information, and the speed of its transmission, issuers, offerors, or persons seeking admission to trading should inform their competent authority about the delay of the disclosure of the inside information and, where required, explain how all the applicable conditions for the delay were met, in writing and by using the secure electronic means specified by their competent authority.
- (9) Competent authorities should be able to efficiently conduct investigations on possible market abuse cases. In order to do so, it is necessary that to enable competent authorities to identify within the issuer, the offeror, or the person seeking admission to trading the persons that are dealing with the delay of disclosure of inside information without requesting that information to the relevant entity. Hence, the issuer, the offeror, or the person seeking admission to trading should provide their competent authority with the identity of the person who informed the competent authority about the delay of the disclosure of the inside information, and of the person or persons that decided to delay that disclosure. To enable competent authorities to assess whether the conditions laid down in Article 88(2) of Regulation (EU) 2023/1114 are met, the issuer, the offeror, or the person seeking admission to trading should also inform their competent authority about of the duration of the delay.

- (10) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Securities and Markets Authority.
- (11) The European Securities and Markets Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²³⁷,

HAS ADOPTED THIS REGULATION:

Article 1

Technical means for public disclosure of inside information

1. Issuers, offerors and persons seeking admission to trading for crypto-assets shall disclose inside information by using technical means that ensure that the inside information is disseminated:
 - (a) to as wide a public as possible on a non-discriminatory basis;
 - (b) free of charge;
 - (c) simultaneously throughout the Union.
2. To ensure effective dissemination, issuers, offerors and persons seeking admission to trading shall communicate inside information, directly or through a third party, to media which are reasonably relied upon by the public, including one or more of the following:
 - (a) traditional media;
 - (b) social media permitting publication in written form;
 - (c) web-based platforms which permit publication of news related to issuers, offerors or persons seeking admission to trading for crypto-assets.

Inside information relating to crypto-assets admitted to trading on a trading platform for crypto-assets may be posted on the website of that trading platform for crypto-assets when such publication is made available by the trading platform for crypto-assets to issuers or offerors.

3. Issuers, offerors, and persons seeking admission to trading shall not disseminate inside information through social media or web-based platforms where the social media or web-based platform does not ensure that the inside information is accessible to all of its users or where the social media or web-based platform makes access subject to modalities that restrict access to its users.
4. Publication of inside information on social media, web-based platforms, or on the website of a trading platform for crypto-assets shall contain a link to the written statement published on the website by the issuer, the offeror, or the person seeking admission to trading pursuant to Article 2.

²³⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

5. Issuers, offerors, and persons seeking admission to trading shall disseminate inside information via social media or web-based platforms, as referred to in paragraph 2, by using electronic means that maintain the completeness, integrity, and confidentiality of the inside information during the dissemination. Any such dissemination shall clearly mention:

- (a) that the information communicated is inside information;
- (b) the identity of the issuer, the offeror, or the person seeking admission to trading, with the full legal name where applicable;
- (c) the identity of the person making the notification by specifying the name, surname, and position of that person within the issuer, the offeror, or the person seeking admission to trading;
- (d) the subject matter of the inside information;
- (e) the date and time of the dissemination.

Issuers, offerors and persons seeking admission to trading shall ensure the completeness, integrity, and confidentiality by remedying any failure or disruption in the dissemination of inside information without delay.

For the purposes of this Article, social media shall mean an 'online social networking service' as defined in Article 2, point (7), of Regulation (EU) 2022/1925 of the European Parliament and the Council²³⁸, and web-based platforms shall mean online platforms which collect and disseminate information and data on crypto-assets to promote informed investment decisions, accessible on a non-discriminatory basis and free of charge.

Article 2

Posting of inside information on the website of the issuer, the offeror or the person seeking admission to trading

1. Issuers, offerors, and persons seeking admission to trading for crypto-assets shall post inside information as referred to in Article 87 of Regulation (EU) 2023/1114 on their website in the form of a downloadable written statement. The language used in the downloadable written statement to describe the inside information shall be clear, precise, and not misleading.
2. The website referred to in paragraph 1 shall:
 - (a) enable users to access the inside information posted on the website in a non-discriminatory manner and free of charge;
 - (b) enable users to locate the inside information easily, by putting that information in an easily identifiable section of the website;
 - (c) clearly indicate the date and time of the disclosure of the inside information;
 - (d) list the disclosures of the inside information in a chronological order;

²³⁸ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/1925/oj>).

- (e) provide the inside information in the language in which the white paper of the crypto-asset is drawn up and, where feasible, in a language customary in the sphere of international finance;
- (f) provide users with the possibility to receive alerts via email, message, or pop-up that inform them that there are publications about inside information and that promote a swift access to those publications, whenever inside information is published.

Article 3

Notification of delayed disclosure of inside information

1. For the purpose of delaying the public disclosure of inside information in accordance with Article 88(2) of Regulation (EU) 2023/1114, issuers, offerors and persons seeking admission to trading shall use technical means that ensure the accessibility, readability, and maintenance in a durable medium of all of the following information:

- (a) the dates and times when:
 - (i) the inside information first existed within the issuer, the offeror, or the person seeking admission to trading;
 - (ii) the decision to delay the disclosure of inside information was made;
 - (iii) the issuer, the offeror, or the person seeking admission to trading is likely to disclose the inside information;
- (b) the positions/functions of the persons within the issuer, the offeror, or the person seeking admission to trading that is responsible for:
 - (i) making the decision to delay the disclosure of the inside information and deciding about the start of the delay and its likely end;
 - (ii) ensuring the on-going monitoring of the conditions for the delay of the disclosure of the inside information;
 - (iii) deciding about the disclosure of the inside information;
 - (iv) providing to the competent authority the information about the delay and the written explanation;
- (c) evidence of the initial fulfilment of the conditions laid down in Article 88(2) of Regulation (EU) 2023/1114, and of any change in that fulfilment during the delay period, including:
 - (i) the information barriers which have been put in place internally and with regard to third parties to prevent access to inside information by persons other than those who require it for the normal exercise of their employment, profession, or duties within the issuer, the offeror, or the person seeking admission to trading;
 - (ii) the arrangements put in place where the confidentiality of the inside information is no longer ensured.

For the purposes of this paragraph 1, 'durable medium' shall mean any instrument which enables the storage of information in a way that is accessible for future reference for a period of time adequate for the purposes of the information and allows the unchanged reproduction of the information stored.

Issuers, offerors and persons seeking admission to trading shall transmit to the competent authority a written notification of delay in the disclosure of inside information and a written explanation of such delay through a dedicated contact point within, or designated by, the competent authority, and using the electronic means specified by the competent authority. Such notification shall also include the identity and contact details of person(s) referred to in paragraph 1(b).

Competent authorities shall publish on their website the dedicated contact point within, or designed by, the competent authority and the electronic means referred to in the previous subparagraph. Those electronic means shall ensure that completeness, integrity and confidentiality of the information are maintained during the transmission.

2. The electronic means referred to in paragraph 1 shall ensure that the notification of a delay in the disclosure of inside information includes the following information:

- (a) the identity of the issuer, the offeror, or the person seeking admission to trading, including the full legal name, where applicable;
- (b) the identity of the person making the notification, including his or her name, surname, and position within the issuer, the offeror, or the person seeking admission to trading;
- (c) the contact point regarding the notification, including his or her professional email address and phone number;
- (d) identification of the publicly disclosed inside information that was subject to the delayed disclosure, including the title of the disclosure statement, the reference number where the dissemination system used assigns one, and the date and time of the public disclosure of the inside information;
- (e) the date and time of the decision to delay the disclosure of the inside information;
- (f) the functions of the persons responsible for the decision to delay the public disclosure of the inside information.

3. Where the written explanation of a delay in the disclosure of inside information is provided only upon request of the competent authority in accordance with Article 88(3) of Regulation (EU) 2023/1114, the electronic means referred to in paragraph 1 shall ensure that such written explanation includes the information referred to in paragraph 2. Such notification shall also include the identity and contact details of person(s) referred to in paragraph 1(b) and 2(b) and (e).

Article 4

Entry into force

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

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

Done at Brussels, 12 November 2024.

APPENDIX 30: COMMISSION IMPLEMENTING REGULATION (EU) 2024/2902

of 20 November 2024

laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to reporting related to asset-referenced tokens and to e-money tokens denominated in a currency that is not an official currency of a Member State

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²³⁹, and in particular Article 22(7), third subparagraph, thereof,

Whereas:

- (1) For the purposes of the reporting referred to in Article 22(1), point (a), of Regulation (EU) 2023/1114, issuers should provide the number of holders with a breakdown by the holders' location and within that location the number for custodial wallet holders and the number for non-custodial wallet holders or holders of any other types of distributed ledger addresses that are used for settlement purposes and are not controlled by the holder or by a crypto asset service provider. Within those two categories of wallet holders, namely, custodial and non-custodial, issuers should provide, with an additional breakdown, the number of retail holders. All those breakdowns are necessary for the competent authorities, as information on the concentration of holders and on the volumes for the retail holders are relevant for the supervisors to meet the objectives of Regulation (EU) 2023/1114 and ensure the proper functioning of markets in crypto-assets, market integrity and financial stability in the Union, as well as the protection of holders of crypto-assets, in particular retail holders. The information provided with the breakdown by location of the holders should also be used to determine which competent authorities will qualify to be members of a college under Article 119(2), point (l), of Regulation (EU) 2023/1114, following the criteria set out in Commission Delegated Regulation [C(2024)6911]²⁴⁰.
- (2) For the purposes of the reporting referred to in Article 22(1), point (b), of Regulation (EU) 2023/1114, and to ensure proper supervision of the requirements on reserve of assets under Articles 36 and 38 of that Regulation, Commission Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114, and Commission Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114, issuers should provide the size of the reserve of assets in a broken-down manner to reflect the value and the composition of the reserve of assets, including liquidity management measures.

²³⁹ OJ L 150, 9.6.2023, p. 40–205, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

²⁴⁰ Commission Delegated Regulation [C(2024)6911] of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions for the establishment and functioning of consultative supervisory colleges (not yet published in the Official Journal).

- (3) In accordance with Article 22(1), second subparagraph, of Regulation (EU) 2023/1114, transactions to be reported in accordance with Article 22(1), points (c) and (d), of Regulation (EU) 2023/1114 are only transactions that lead to a change of the natural or legal person entitled to the asset-referenced token and include transactions settled on the distributed ledger ('on-chain transactions') and transactions settled outside the distributed ledger ('off-chain transactions'). Furthermore, the concept of 'transaction' referred to in Article 22(1), second subparagraph, of that Regulation is not concerned with the type of wallets used by the originator or by the beneficiary for sending or receiving a transaction. Accordingly, the reporting requirements referred to in Article 22(1), points (c) and (d), of that Regulation should include transactions between custodial wallets and transactions between a custodial wallet, on the one hand, and a non-custodial wallet or other types of distributed ledger addresses that are not controlled by a holder of an asset-referenced token or by a crypto asset service provider, on the other hand. In addition, the reporting requirement referred to in Article 22(1), point (c), of Regulation (EU) 2023/1114 should also cover transactions between non-custodial wallets and between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of an asset-referenced token or by a crypto-asset service provider. Since issuers have limited information on the holders involved in those transactions, in some cases it cannot be determined whether those transactions are transactions to be reported under Article 22(1) of that Regulation. Therefore, to have the most accurate information possible on those transactions, the reporting requirement referred to in Article 22(1), point (c), of that Regulation should also include information on transfers between non-custodial wallets and between non-custodial wallets and other types of distributed ledger addresses that are used for settlement purposes and are not controlled by a holder of an asset referenced token or by a crypto asset service provider. As transactions are a subset of transfers, such additional information on transfers between non-custodial wallets and between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of an asset-referenced token or by a crypto-asset service provider could be used as a proxy and provide useful information on the number and value of the transactions between non-custodial wallets and between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of an asset-referenced token or by a crypto-asset service provider.
- (4) For the purposes of the reporting requirement referred to in Article 22(1), point (c), of Regulation (EU) 2023/1114, issuers should provide the information on the transactions with a breakdown for geographical distribution, meaning the countries of holders involved in the transactions. Such a breakdown would provide useful information on the concentration of transactions for the competent authorities performing their supervisory roles. The information provided with the breakdown by countries of the transactions will be also used to determine which competent authorities will qualify to be members of a college under Article 119 of Regulation (EU) 2023/1114, as provided for in Delegated Regulation [C(2024)6911]. That breakdown is not required for the transactions and transfers between non-custodial wallets or between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of an asset-referenced token or by a crypto asset service provider, due to the limited information issuers have on the holders involved in such transactions and transfers.
- (5) To be effective, the reporting framework should include reporting reference dates and remittance dates ensuring proper and timely sharing of data so that the data relates to the same period and is submitted at the same time for all reporting entities, and to allow the comparability of data across the issuers and competent authorities, while using standardised formats and templates.
- (6) Continuity of reporting should be ensured in cases where temporary changes in the issue value of the tokens would make that value go below the threshold referred to in Article 22(1) of Regulation (EU) 2023/1114. Therefore, it is necessary to require reporting for extra time so as to confirm whether the drop below the threshold is temporary. That would not have an impact on the issuers, as they will already have their reporting systems in place.

- (7) For the purposes of the reporting requirement referred to in Article 22(3) of Regulation 2023/1114, some information which crypto-asset service providers should provide to the issuers could include personal data when it relates to natural persons. That includes full names accompanied by national identification numbers, official tax registration numbers, or passport numbers. The collection of such personal data in that case is necessary in order to achieve the objectives of Regulation (EU) 2023/1114 as, without that information, the issuers could not determine the precise number of holders of an asset-referenced token and they would be double counting holders having multiple accounts with different crypto-asset service providers. Such imprecise data would distort the information reported to the competent authorities about the number of holders of an asset-reference token and would therefore hinder proper supervision by the competent authorities. As a result, there is no other way to accurately reflect the information on the holders of asset-referenced tokens in the reporting and the usual measures for limiting or protecting personal data sharing, such as pseudonymisation, cannot be applied in that case.
- (8) For the purposes of the reporting requirement referred to in Article 22(3) of Regulation 2023/1114, crypto-asset service providers should also provide to the issuer the public distributed ledger addresses they use for making transfers on behalf of their clients. Such information is necessary for issuers to be able to identify which transactions registered on the distributed ledger take place between non-custodial wallets and to report the transactions in scope of the reporting obligations.
- (9) To ensure that the information reported to the competent authority is correct and complete, issuers should have systems and procedures in place that allow the issuer to reconcile the data received from the crypto-asset service providers pursuant to Article 22(3) of Regulation (EU) 2023/1114. Such systems and procedures should also allow the issuer to reconcile the data reported by crypto-asset service providers with the data available to the issuer from other sources, including, where applicable, transactional data available on the distributed ledger.
- (10) Issuers should implement in their internal policies a maximum retention period for the personal data of the individual holders shared by the crypto-asset service providers. Considering the objective of ensuring compliance with the reporting obligations pursuant to Article 22(1) of Regulation (EU) 2023/1114, that maximum retention period should not exceed 5 years from the date of obtaining the personal data.
- (11) This Regulation should also apply *mutatis mutandis* to e-money tokens denominated in a currency that is not an official currency of a Member State, given that Article 22 of Regulation (EU) 2023/1114 applies to e-money tokens denominated in such a currency.
- (12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁴¹ and delivered an opinion on 16 July 2024.
- (13) To align with the date of application of Regulation (EU) 2023/1114 with respect to crypto-asset service providers, the date of application of this Regulation should be deferred.
- (14) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority.
- (15) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and

²⁴¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council²⁴²,

HAS ADOPTED THIS REGULATION:

Article 1

General provisions

1. For the purposes of the reporting requirement referred to in Article 22(1) of Regulation (EU) 2023/1114, issuers shall use the templates set out in Annex I, in accordance with the instructions provided for in Annex II, to this Regulation.
2. For the purposes of the reporting requirement referred to in Article 22(3) of Regulation (EU) 2023/1114, crypto-asset service providers shall submit to the issuers the templates set out in Annex III, in accordance with the instructions provided for in Annex IV, to this Regulation.
3. For purposes of the reporting referred to in Article 22(1) of Regulation (EU) 2023/1114, issuers shall accompany the submitted data listed in Annex I to this Regulation with the following information:
 - (a) the reporting reference date and reference period;
 - (b) the reporting currency;
 - (c) for legal entities, the legal entity identifier (LEI) of the issuer, and for natural persons the official national identification number applicable in the home Member State;
 - (d) the type of the token, as defined in Article 3(1), point (6) or (7), of Regulation (EU) 2023/1114, and related identification code, reference or name of the token, where available, based on the published crypto-asset white paper for the token;
 - (e) whether the token:
 - (i) references only the official currency of the home Member State;
 - (ii) references only currencies other than the official currency of the home Member State;
 - (iii) references both the official currency of the home Member State and other currencies (a mix of the option referred to in point (i) and the option referred to in point (ii));
 - (f) whether the token has been classified as significant in accordance with Article 43 of Regulation (EU) 2023/1114;
 - (g) where applicable, a statement that the issuer has not received the information referred to in Annexes III and IV to this Regulation from the crypto-asset service providers.

²⁴² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

4. In accordance with Article 58(3) of Regulation (EU) 2023/1114, this Regulation applies *mutatis mutandis* to e-money tokens denominated in a currency that is not an official currency of a Member State.

Article 2

Reporting reference dates

1. For the purposes of the reporting requirement referred to in Article 22(1) of Regulation (EU) 2023/1114, issuers shall submit information to competent authorities on a quarterly reporting basis, with the following reporting reference dates: 31 March, 30 June, 30 September and 31 December.
2. The first reference date shall be the one corresponding to the quarter in which the issue value of the asset-referenced token is higher than the threshold referred to in Article 22(1) of Regulation (EU) 2023/1114.
3. The last reference date shall be the one corresponding to the third consecutive quarter in which the issue value of the asset-referenced token is lower than the threshold referred to in Article 22(1) of Regulation (EU) No 2023/1114.

Article 3

Reporting remittance dates

1. For the purposes of the reporting requirement referred to in Article 22(1) of Regulation (EU) 2023/1114, issuers shall submit the information referred to in that Article to competent authorities on a quarterly reporting basis, by close of business on the following remittance dates: 12 May, 11 August, 11 November and 11 February.
2. For the purposes of the reporting requirement referred to in Article 22(3) of Regulation (EU) 2023/1114, crypto-asset service providers shall submit the information referred to in that Article to the issuers on a quarterly reporting basis, by close of business on the following remittance dates: 21 April, 21 July, 21 October and 21 January.

However, crypto-asset service providers shall submit 'Template S 08.00 – Token held by CASP', which is set out in Annexes III and IV, to the issuers by close of business on a daily basis.

3. If the remittance day is a public holiday in the Member State of the competent authority to which the report is to be provided, or a Saturday or Sunday, data shall be submitted on the following working day.
4. Issuers shall submit any corrections to the reports submitted to the competent authorities without undue delay.

Article 4

Data exchange formats and information accompanying submissions

1. When submitting the information referred to in this Regulation, issuers shall submit it in the data exchange formats and representations as specified by the competent authorities and in accordance with the data point definition of the data point model and the validation formulae set out in Annex V and the following specifications:
 - (a) information that is not required or not applicable shall not be included in a data submission;
 - (b) numerical values shall be submitted as follows:

- (i) data points with the data type 'Monetary' shall be reported using a minimum precision equivalent to ten thousands of units;
 - (ii) data points with the data type 'Integer' shall be reported using no decimals and a precision equivalent to units.
2. Crypto-asset service providers shall submit the information referred to in Article 1(2) to the issuers in the data exchange formats and representations specified by the issuers.

Article 5

Retention period of personal data by issuers

The issuers shall not retain any personal data on holders submitted by the crypto-asset service providers in accordance with Articles 1(2) and 3(2) of this Regulation for longer than necessary to comply with the reporting obligations laid down in Article 22(1) of Regulation (EU) 2023/1114. Such retention period shall not exceed 5 years from the date of obtaining the personal data by the issuers.

Article 6

Entry into force and date of application

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

It shall apply from 1 January 2025.

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

Done at Brussels, 20 November 2024.

ANNEX I

Reporting for issuers of asset-referenced token

ISSUER TEMPLATES			
Template number	Template code	Addressees	Name of the template /group of templates
NUMBER OF HOLDERS			
1	S 01.00	Issuers	NUMBER OF HOLDERS - AT REFERENCE DATE
VALUE OF THE TOKEN ISSUED AND THE SIZE AND COMPOSITION OF THE RESERVE OF ASSETS			
2	S 02.00	Issuers	VALUE OF THE TOKEN ISSUED AND THE SIZE OF THE RESERVE OF ASSETS
3	S 03.01	Issuers	COMPOSITION OF THE RESERVE OF ASSETS BY TYPE OF ASSETS AND MATURITIES
3	S 03.02	Issuers	COMPOSITION OF THE RESERVE OF ASSETS BY COUNTERPARTY/ISSUER
TRANSACTIONS PER DAY			
4	S 04.01	Issuers	TRANSACTIONS PER DAY - AVERAGE
4	S 04.02	Issuers	TRANSACTIONS PER DAY - AVERAGE_EU
4	S 04.03	Issuers	TRANSACTIONS AND TRANSFERS PER DAY BETWEEN NON-CUSTODIAL WALLETS - AVERAGE
4	S 04.04	Issuers	METHODOLOGY USED FOR TEMPLATE S 04.03
TRANSACTIONS PER DAY THAT ARE ASSOCIATED TO USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA			

5	S 05.00	Issuers	TRANSACTIONS PER DAY THAT ARE ASSOCIATED TO USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA - AVERAGE

S 01.00 - NUMBER OF HOLDERS - AT REFERENCE DATE		
Country:		
		Number
		0010
Total number of holders	0010	
holders of custodial wallet	0020	
of which retail holders	0030	
holders of non-custodial wallet	0040	
of which retail holders	0050	

S 02.00 - VALUE OF THE TOKEN ISSUED AND THE SIZE OF THE RESERVE OF ASSETS		

		Amount

		0010
Value of the token issued - at reference date	0010	
Value of the token issued - maximum	0020	
Value of the token issued - average	0030	
Value of the token issued - minimum	0040	
Size of the reserve of assets - at reference date	0050	
Size of the reserve of assets - maximum	0060	
Size of the reserve of assets - average	0070	
Size of the reserve of assets - minimum	0080	

S 03.01 - COMPOSITION OF THE RESERVE OF ASSETS BY TYPE OF ASSETS AND MATURITIES

Currency:	Total and List of currencies

Row	ID	Item	Amount/Market value
			0010
0010	1	Reserve of assets	
0020	2	Unadjusted reserve of assets	
0030	2.1	Coins and banknotes	
0040	2.2	Deposits with credit institutions	

0050	2.3	Commodities	
0060	2.3.1	of which: based on gold	
0070	2.3.2	of which: based on other precious metals	
0080	2.3.3	of which: based on industry metals	
0090	2.3.4	of which: based on energy	
0100	2.3.5	of which: based on livestock	
0110	2.3.6	of which: based on grains	
0120	2.3.7	of which: based on softs	
0130	2.4	Assets representing claims on or guaranteed by Central banks	
0140	2.5	Assets representing claims on or guaranteed by Central governments	
0150	2.6	Assets representing claims on or guaranteed by Regional governments / local authorities	
0160	2.7	Assets representing claims on or guaranteed by Public Sector Entities	
0170	2.8	Assets representing claims on or guaranteed by Credit institutions (protected by Member State government, promotional lender)	
0180	2.9	Assets representing claims on or guaranteed by Multilateral development banks and international organisations	
0190	2.10	Qualifying CIU units	
0200	2.11	Extremely high quality covered bonds	
0210	2.12	Other highly liquid financial instruments, used as assets referenced	
0220	2.12.1	of which: Crypto assets	
0230	2.13	Others	
0240	3	Adjustments	
0250	3.1	Reverse repos	
0260	3.1.1	Cash inflows maturing within the next 5 working days	

0270	3.1.2	Collateral outflows maturing within the next 5 working days	
0280	3.1.2.1	of which: Extremely high quality covered bonds	
0290	3.2	Repos	
0300	3.2.1	Cash outflows maturing within the next 5 working days	
0310	3.2.2	Collateral inflows maturing within the next 5 working days	
0320	3.2.2.1	of which: Extremely high quality covered bonds	
0330	3.3	Collateral swaps	
0340	3.3.1	Collateral outflows maturing within the next 5 working days	
0350	3.3.1.1	of which: Extremely high quality covered bonds	
0360	3.3.2	Collateral inflows maturing within the next 5 working days	
0370	3.3.2.1	of which: Extremely high quality covered bonds	
0380	4	Value of the asset referenced	
0390	5	Mandatory Over-collateralisation	

S 03.02 - COMPOSITION OF THE RESERVE OF ASSETS BY COUNTERPARTY/ISSUER

Currency:	Total and List of currencies

			Type of	Counterparty Issuer	LEI	Type of	Amount/Market	as % of total assets of the credit

			product	Name	Code	institution	value	institution receiving deposit
Row	ID	Item	0010	0020	0030	0040	0050	0060
0010	1.01	Top 20 largest counterparties for the assets included in the reserve of assets						
0020	1.02							
0030	1.03							
0040	1.04							
0050	1.05							
0060	1.06							
0070	1.07							
0080	1.08							
0090	1.09							
0100	1.10							
0110	1.11							
0120	1.12							
0130	1.13							
0140	1.14							
0150	1.15							
0160	1.16							
0170	1.17							
0180	1.18							
0190	1.19							
0200	1.20							

0210	1,21	ALL OTHER BANK DEPOSITS COUNTERPARTIES					
0220	1,22	ALL OTHER SECURITIES ISSUERS					
0230	1,23	ALL OTHER DERIVATIVES COUNTERPARTIES					

S 04.01 - TRANSACTIONS PER DAY - AVERAGE			
Country:			
		Number	Amount
		0010	0020
Transactions per day - average	0010		
of which made within the country	0020		
of which received transaction to the country	0030		
of which sent transaction from the country	0040		

S 04.02 - TRANSACTIONS PER DAY - AVERAGE_EU			

		Number	Amount
		0010	0020

Transactions per day - average	0010		
of which made within the EU	0020		
of which received transaction to the EU	0030		
of which sent transaction from the EU	0040		

S 04.03 -

TRANSACTIONS AND TRANSFERS PER DAY BETWEEN NON-CUSTODIAL WALLETS - AVERAGE

		Number	Amount
		0010	0020
Transactions between non-custodial wallets per day - average	0010		
Transfers between non-custodial wallets per day - average	0020		

S 04.04 -

Methodology used for template S 04.03

		0010
Description of the methodology used for template S 04.03	0010	

S 05.00 - TRANSACTIONS PER DAY THAT ARE ASSOCIATED TO USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA - AVERAGE			
Single currency area:			
		Number	Amount
		0010	0020
Transactions per day - average	0010		

ANNEX II

REPORTING FOR ISSUERS OF ASSET-REFERENCED TOKEN AND OF E-MONEY TOKENS DENOMINATED IN A CURRENCY THAT IS NOT AN OFFICIAL CURRENCY OF A MEMBER STATE - INSTRUCTIONS

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PART I: GENERAL INSTRUCTIONS**I. Structure**

1. This Annex contains the instructions for the reporting of the templates for issuers.
2. This Annex consists of four different sets of templates:
 - (a) number of holders (S 01.00);
 - (b) value of the token issued and the size and composition of the reserve of assets (S 02.00, S 03.01 and S 03.02);
 - (c) transactions per day (S 04.01, S 04.02, S 04.03 and S 04.04);
 - (d) transactions per day that are associated to uses as a means of exchange within a single currency area (S 05.00).
3. For each template, legal references are provided. Further detailed information regarding more general aspects of the reporting of each block of templates and instructions concerning specific positions are included in this part of this Implementing Regulation.
4. Issuers shall report in the columns labeled as "Amount" or "Amount/Market value" the monetary values denominated in the official currency of the competent authority's Member State, regardless of the denomination of the basket of assets referenced by the asset-referenced token. In columns "Number", numerical values shall be reported, following the specific instructions given for the templates. This is without prejudice to templates S 03.01, S 03.02 and S 04.04, for which these are specified in their related instructions.
5. The following general notation is followed in the instructions: {Template; Row; Column; z-axis}. In the case of templates with only one column, only rows are referred to {Template; Row}, with z-axis where applicable.
6. When filling in the templates, issuers shall use the information provided by the crypto-asset service providers, in accordance with Article 1(2) and Article 3(2) of this Implementing Regulation.

II. Scope of reporting

7. Issuers shall report all templates set out in this Annex.
8. Issuers shall report the templates set out in this Annex separately for each asset-referenced token.

PART II: NUMBER OF HOLDERS (S 01.00)

III. General remarks on Template S 01.00

9. In accordance with Article 22(1), point (a), of Regulation (EU) 2023/1114, Template S 01.00 shall contain the number of holders of the asset-referenced token as at the end of the reference date, with the breakdowns of:
 - (a) Holders of custodial wallet, including an "of which" for retail holders;

- (b) Holders of non-custodial wallet, which for the purpose of this template include holders of any other types of distributed ledger addresses that are used for settlement purposes and not controlled by a holder of the asset-referenced token or by a crypto asset service provider; an additional breakdown for retail holders is included as an "of which" of this row.
- 10. Information of this template shall be reported at a total level and separately for each Member State or third country. The country of a holder shall be determined by the holders' location as follows:
 - a. for natural persons, their habitual residence;
 - b. for legal persons, the registered office address.
- 11. Issuers shall, based on the information received from crypto-asset service providers in accordance with Article 1(2) and Article 3(2) of this Implementing Regulation, identify possible duplications of the same holders having multiple accounts with different crypto-asset service providers. Such accounts, where the actual holder is the same person or entity, shall be counted as one holder for the purposes of Template S 01.00.

IV. Instructions concerning specific positions of Template S 01.00

Row	Legal references and instructions
0010	Total number of holders The total number of holders.
0020	holders of custodial wallet The number of holders of custodial wallet within the meaning of Article 2, point (2), of Commission Delegated Regulation [C(2024) 6910] ²⁴³ .
0030	of which retail holders Within the scope of row 0020 – <i>of which holders of custodial wallet</i> , the number of retail holders.
0040	holders of non-custodial wallet The number of holders of non-custodial wallet within the meaning of Article 2, point (3), of Delegated Regulation [C(2024) 6910], or holder of any other type of distributed ledger address that is used for settlement purposes and not controlled by a holder of the asset-referenced token or by a crypto asset service provider, and all other holders of the asset-referenced token that are not counted under row 0020 – <i>of which holders of custodial wallet</i> . Due to the limited information on holders of non-custodial wallet, issuers are to report their estimates for this row, calculated on a best effort basis.
0050	of which retail holders Within the scope of row 0040 – <i>of which holders of non-custodial wallet</i> , the number of retail holders. Due to the limited information on holders of non-custodial wallet, issuers are to report their estimates for this row, calculated on a best effort basis.

PART III: VALUE OF THE TOKEN ISSUED AND THE SIZE AND COMPOSITION OF THE RESERVE OF ASSETS (S 02.00, S 03.01 and S 03.02)

²⁴³ Commission Delegated Regulation [C(2024) 6910] of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodology to estimate the number and value of transactions associated to uses of asset-referenced tokens and of e-money tokens denominated in a currency that is not an official currency of a Member State as a means of exchange (not yet published in the Official Journal).

V. General remarks on Template S 02.00

12. In accordance with Article 22(1), point (b), of Regulation (EU) 2023/1114, Template S 02.00 shall include information on the value of the token issued and on the size of the related reserve of assets.

VI. Instructions concerning specific positions of Template S 02.00

Row	Legal references and instructions
0010	Value of the token issued – at reference date The aggregated value of the token issued, on the reporting reference date, calculated following the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910].
0020	Value of the token issued – maximum The maximum amount among the aggregated values of the token issued as at the end of each calendar day during the reporting period, calculated following the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910].
0030	Value of the token issued – average The average amount of the aggregated values of the token issued as at the end of each calendar day during the reporting period, calculated following the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910]. The average shall be calculated as the sum of the values of the token issued calculated for each calendar day for the reporting period, divided by the number of the calendar days in the reporting period.
0040	Value of the token issued – minimum The minimum amount among the aggregated values of the token issued as at the end of each calendar day during the reporting period, calculated following the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910].
0050	Size of the reserve of assets – at reference date The value of the reserve of assets as at the end of the reference date, calculated following the requirements set out in Article 36 of Regulation (EU) 2023/1114 and Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114.
0060	Size of the reserve of assets – maximum The maximum amount among the values of the reserve of assets as at the end of each calendar day during the reporting period, calculated following the requirements set out in Article 36 of Regulation (EU) 2023/1114 and Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114.
0070	Size of the reserve of assets – average The average amount of the values of the reserve of assets as at the end of each calendar day during the reporting period, calculated following the requirements set out in Article 36 of Regulation (EU) 2023/1114 and Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114. The average shall be calculated as the sum of the values of the reserve of assets calculated for each calendar day for the reporting period, divided by the number of the calendar days in the reporting period.
0080	Size of the reserve of assets – minimum The minimum amount among the values of the reserve of assets as at the end of each calendar day during the reporting period, calculated following the requirements set out in Article 36 of Regulation (EU) 2023/1114 and Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114.

VII. General remarks on Template S 03.01

13. In accordance with Article 22(1), point (b), of Regulation (EU) 2023/1114, Template S 03.01 shall include information on the size of the reserve of assets, including the composition of the reserve of assets by type of assets and maturities.
14. Issuers shall report all the items in this Template S 03.01 in the official currency of the home Member State (reporting currency), regardless of the actual denomination of those items. For these purposes, items that are not denominated in the reporting currency shall be converted into the reporting currency by using the ECB spot exchange rate applicable on the reporting reference date. Issuers shall also report separately the items of this template that are denominated in the same currency, presented in their currency of denomination by setting the related z-axis value accordingly.

VIII. Instructions concerning specific positions of Template S 03.01

Rows	Legal references and instructions
0010	Reserve of assets The amount/market value of the assets in the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114 taking into account the unwind mechanism as defined in Article 6 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0020	Unadjusted reserve of assets The amount/market value of the assets in the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114 before taking into account the unwind mechanism as defined in Article 6 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0030	Coins and banknotes Total amount of coins and banknotes.
0040	Deposits with credit institutions The amount of deposits with credit institutions shall be reported here.
0050	Commodities The market value of commodities or shares in funds that invest in commodities with the aim to track the price of commodities shall be reported here.
0060	of which: based on gold Commodities as reported in row 0050 which are based on gold.
0070	of which: based on other precious metals Commodities as reported in row 0050 which are based on other precious metals than gold, including platinum or silver.
0080	of which: based on industry metals Commodities as reported in row 0050 which are based on industry metals, including Aluminium, Copper, Lead Nickel, Tin or Zinc.
0090	of which: based on energy Commodities as reported in row 0050 which are based on energy, including Crude Oil (WTI and Brent), Natural Gas, RBOB Gasoline, Low Sulphur Gas Oil or ULS Diesel.
0100	of which: based on livestock Commodities as reported in row 0050 which are based on livestock, including Live Cattle or Lean Hogs.
0110	of which: based on grains Commodities as reported in row 0050 which are based on grains, including Corn Soybeans, Soybean Oil, Soybean Meal or Wheat (Chicago and KC HRW).

0120	of which: based on softs Commodities as reported in row 0050 which are based on softs, including Cocoa, Coffee, Cotton or Sugar.
0130	Assets representing claims on or guaranteed by central banks The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing claims on or guaranteed by central banks referred to in Articles 10(1), points (b) and (d), of Commission Delegated Regulation (EU) 2015/61 ²⁴⁴ .
0140	Assets representing claims on or guaranteed by central governments The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing claims on or guaranteed by central governments referred to in Article 10(1), points (c) and (d), of Delegated Regulation (EU) 2015/61.
0150	Assets representing claims on or guaranteed by regional governments / local authorities The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing claims on or guaranteed by regional governments or local authorities referred to in Article 10(1), point (c), of Delegated Regulation (EU) 2015/61.
0160	Assets representing claims on or guaranteed by public sector entities The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing claims on or guaranteed by public sector entities referred to in Article 10(1), point (c), of Delegated Regulation (EU) 2015/61.
0170	Assets representing claims on or guaranteed by credit institutions (protected by Member State government, promotional lender) The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 issued by credit institutions referred to in Article 10(1), point (e), of Delegated Regulation (EU) 2015/61.
0180	Assets representing claims on or guaranteed by multilateral development banks and international organisations The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing claims on or guaranteed by the multilateral development banks and the international organisations referred to in Article 10(1), point (g), of Delegated Regulation (EU) 2015/61.
0190	Qualifying CIU units The market value of shares or units in CIUs referred to in Article 15(2), point (a), of Delegated Regulation (EU) 2015/61. The market value of units in UCITS referred to in Article 38(2) of Regulation (EU) 2023/1114 shall be reported here too.
0200	Extremely high-quality covered bonds The market value of highly liquid financial instruments as defined in Articles 2 and 3 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114 representing exposures in the form of extremely high-quality covered bonds referred to in Article 10(1), point (f), of Delegated Regulation (EU) 2015/61.
0210	Other highly liquid financial instruments, used as assets referenced The market value of highly liquid financial instruments used as assets referenced falling under Article 2(1),

²⁴⁴ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/61/oj).

	point (a), point (iii), of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0220	of which: Crypto assets Highly liquid financial instruments as reported in row 0210 if they are crypto assets as referred to in Article 2(4), point (a), of Regulation (EU) 2023/1114.
0230	Others The amount/market value of any other asset in the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114.
0240	Adjustments The impact of the adjustments related to the assets in the reserve of assets referred to in Article 36 of Regulation (EU) 2023/1114, due to the termination of secured funding, secured lending or collateral swap transactions entered into using reserve assets on at least one leg of the transaction, where the transaction matures within 5 working days, as specified in Article 6 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0250	Reverse repos
0260	Cash inflows maturing within the next 5 working days The amount of cash inflows from reverse repos where the transaction matures within the next 5 working days after the reporting reference date.
0270	Collateral outflows maturing within the next 5 working days The market value of the collateral outflows from reverse repos where the transaction matures within the next 5 working days after the reporting reference date shall be reported here if the collateral to be posted is reported under row 0020.
0280	of which: Extremely high quality covered bonds The market value of the collateral outflows as reported in row 0270 in the form of extremely high-quality covered bonds referred to in Article 2(1), point (a), point (ii), of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0290	Repos
0300	Cash outflows maturing within the next 5 working days The amount of cash outflows from repos where the transaction matures within the next 5 working days after the reporting reference date.
0310	Collateral inflows maturing within the next 5 working days The market value of the collateral inflows from repos where the transaction matures within the next 5 working days after the reporting reference date if the collateral to be received, if unencumbered, would qualify as an asset in the reserve of assets.
0320	of which: Extremely high quality covered bonds The market value of the collateral inflows as reported in row 0310 in the form of extremely high-quality covered bonds referred to in Article 2(1), point (a), point (ii), of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0330	Collateral swaps
0340	Collateral outflows maturing within the next 5 working days The market value of the collateral outflows from collateral swaps where the transaction matures within the next 5 working days after the reference date if the collateral to be posted is reported under row 0020.
0350	of which: Extremely high quality covered bonds The market value of the collateral outflows as reported in row 0340 in the form of extremely high-quality covered bonds referred to in Article 2(1), point (a), point (ii), of Delegated Regulation establishing

	regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0360	Collateral inflows maturing within the next 5 working days The market value of the collateral inflows from collateral swaps where the transaction matures within the next 5 working days after the reference date if the collateral to be received, if unencumbered, would qualify as an asset in the reserve of assets.
0370	of which: Extremely high quality covered bonds The market value of the collateral inflows as reported in row 0360 in the form of extremely high-quality covered bonds referred to in Article 2(1), point (a), point (ii), of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114.
0380	Value of the asset referenced The monetary value or the market value of the asset-referenced by the tokens issued if the token is referenced to official currencies or to other than official currencies, respectively.
0390	Mandatory Over-collateralisation The value of the reserve of assets exceeding the value of the assets referenced and expressed as a percentage of the value of the assets referenced, in accordance with Article 7 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 36(4) of Regulation (EU) 2023/1114.

Columns	Legal references and instructions
0010	Amount/market value Issuers shall report in column 0010 the market value, or the amount where applicable, of the assets in the reserve of assets for rows 0010 to 0380. Row 0390 shall be reported in percentage. The amount/market value reported in column 0010 shall take into account net outflows and net inflows that would result in the event of an early close-out of the hedge, including derivatives hedging the difference between the change of the market value of reserve assets and the change of the market value of the assets referenced by the token. This includes derivatives in the reserve of assets that are relating to the assets referenced by the tokens where the tokens are not referenced to official currencies. The amount/market value reported in column 0010 shall not take into account regulatory haircuts. Issuers shall take into account the net cash flow, either outflow or inflow, that would arise if the hedge was to be closed out at the reporting reference date. This does not take into account potential future value changes in the asset.

z-axis	Legal references and instructions
Currency	The issuer shall indicate which currency is in scope in accordance with point 15 for the template presented.

IX. General remarks on Template S 03.02

15. In accordance with Article 22(1), point (b), of Regulation (EU) 2023/1114, Template S 03.02 shall include information on the size of the reserve of assets, including the composition of the reserve of assets by counterparty/issuer.
16. In order to collect information about concentration by counterparties for each asset type within the reserve of assets in Template S 03.02, issuers shall apply the instructions contained in this section.

17. Issuers shall report the top twenty largest counterparties for the assets included in their reserve of assets. The counterparty reported in item 1.01 shall be the counterparty with whom the largest amount of assets relative to one counterparty is held, considering each asset type separately either in the form of deposits with, securities issued by, derivatives exposures with or other exposures with that counterparty, on the reporting reference date; item 1.02 shall be the second largest; and similarly with the remaining items. All the remaining bank deposits with, securities issued by, derivatives exposures with other counterparties shall be reported in an aggregated manner in items 1.21, 1.22 and 1.23, respectively.
18. Where a counterparty belongs to several groups of entities with close links, it shall be reported only once in the group with the highest amount of assets.
19. Issuers shall report all the items in this template in the reporting currency, regardless of the actual denomination of those items. For these purposes, items that are not denominated in the reporting currency should be converted into the reporting currency by using the ECB spot exchange rate applicable on the reporting reference date. Issuers shall also report separately the items of this template that are denominated in the same currency, presented in their currency of denomination by setting the related z-axis value accordingly.

X. Instructions concerning specific positions of Template S 03.02

Columns	Legal references and instructions
0010	Type of product Issuers/Counterparties recorded in column 0020 shall be assigned a product type corresponding to the underlying transaction, using the following codes indicated in bold: — DEPO (Deposits with a credit institution in the reserve of assets). — 0% SEC (LCR 0% haircut liquid assets – securities or money market instruments in the reserve of assets). — EHCB (LCR extremely high-quality covered bonds in the reserve of assets). — UCITs units (units in UCITs in the reserve of assets). — DERIV (Unmargined OTC derivatives in the reserve of assets). — OTHER (Other highly liquid financial instruments – securities, money market instruments or crypto-assets in the reserve of assets). Different rows shall be reported with the same issuer/counterparty for each product type.
0020	Counterparty/Issuer Name The names of the top twenty issuers or counterparties as long as the amount of the deposits placed with, the instruments issued or the exposures to each of them is at least 3 % of the reserve of assets as reported in row 0010 of S 03.01. Each name shall include the deposit receiver or the instruments issuer or all entities with close links among each other to those exposures. This column shall capture the full name of the legal entity among those with close links with which the issuer has the highest exposure and shall include any references to the company type in accordance with the national company law. The largest item shall be reported in line 1.01, the second in line 1.02, and so on.
0030	LEI Code The legal entity identifier code of the counterparty.
0040	Type of institution Issuers/Counterparties classified as credit institution defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽³⁾ recorded in column 0020 shall be reported using the following codes indicated in bold:

	—G-SII if the credit institution receiving the deposit is designated as 'global systemically important institution' in accordance with Article 131(1) of Directive 2013/36/EU of the European Parliament and of the Council²⁴⁵. —O-SII if the credit institution receiving the deposit is designated as other 'systemically important institution' in accordance with Article 131(1) of Directive 2013/36/EU. —Large Institution (other than G-SII or O-SII) if the credit institution receiving the deposit qualifies as a 'large institution' as defined in Article 4(1), point (146), of Regulation (EU) No 575/2013 but is not identified as G-SII or O-SII. —Other (Regular and SNCIs) if the credit institution receiving the deposit does not qualify as a large institution as defined in Article 4(1), point (146), of Regulation (EU) No 575/2013. If the issuer/counterparty is not a credit institution, this field shall be left empty.
0050	Amount/Market value The amount of the deposits and the market value of the securities and derivatives shall be reported here taking into account the unwind mechanism as defined in Article 6 of Delegated Regulation establishing regulatory technical standards adopted pursuant to Article 38(5) of Regulation (EU) 2023/1114. The amount/market value shall not take into account regulatory haircuts. They shall take into account the net outflows and net inflows that would result in the event of an early close-out of the hedge.
0060	as % of total assets of the credit institution receiving deposit For deposits in a credit institution that are included in the reserve of assets of the same tokens referred to in Article 36 of Regulation (EU) 2023/1114, the amount shall be reported as percentage of the total assets of the credit institution receiving those deposits. The amount of total assets shall be the latest published available data of the relevant credit institution.

z-axis	Legal references and instructions
Currency	The issuer shall indicate which currency is in scope in accordance with point 20 for the template presented.

PART IV: TRANSACTIONS PER DAY (S 04.01, S 04.02, S 04.03 and S 04.04)

XI. General remarks on Template S 04.01

20. In accordance with Article 22(1), point (c), of Regulation (EU) 2023/1114, Template S 04.01 shall include information on the average number and average aggregate value of transactions per day during the reporting period, presented separately for the countries in scope of the reporting.
21. The location of the originator and the beneficiary involved in the transactions shall be, following the approach for defining the country of the holders in template S 01.00 'Number of holders – at reference date', as follows:
 - (a) for natural persons, their habitual residence;

²⁴⁵ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27/06/2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>).

- (b) for legal persons, the registered office address.
- 22. Those transactions shall be in scope for this template, where at least one of the holders involved in the transaction is located within the Union. In addition, when the token references an official currency of one of the Member States of the Union, transactions where both of the holders involved are located outside of the Union shall be also included to the scope of reporting.
- 23. The issuer shall determine the value of the transactions following the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910].
- 24. Template S 04.01 shall include a breakdown for the transactions:
 - (a) of which made within the country;
 - (b) of which received transaction to the country;
 - (c) of which sent transaction from the country.
- 25. Template S 04.01 shall be reported separately for each country related to the transaction with the asset-referenced token. The countries of a transaction are the countries of residence of the holders involved in the transaction, including the country of the originator and the country of the beneficiary of the transaction.

XII. Instructions concerning specific positions of Template S 04.01

Row	Legal references and instructions
0010	Transactions per day - average For the country determined by the z-axis, transactions where either the location of the originator or the location of the beneficiary is within that country.
0020	Of which made within the country For the country determined by the z-axis, transactions where both the location of the originator and the location of the beneficiary is within that country.
0030	Of which received transaction to the country For the country determined by the z-axis, transactions where the location of the originator is outside of that country and the location of the beneficiary is within that country.
0040	Of which sent transaction from the country For the country determined by the z-axis, transactions where the location of the originator is within that country and the location of the beneficiary is outside of that country.

Column	Legal references and instructions
0010	Number The average number of transactions per day, calculated as the total number of transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period.
0020	Amount The average aggregate value of transactions per day, calculated as the sum of the values of all transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period.

z-axis	Legal references and instructions
Name of the country	This template shall be reported separately for each country in scope. The z-axis determines the country in scope for the specific template. The z-axis shall provide all the different countries based on the location of the holders involved in the transactions in scope.

XIII. General remarks on Template S 04.02

26. The only difference between Templates S 04.02 and Template S 04.01 is that Template S 04.02 is for all the transactions related to the EU and therefore it does not have the z-axis determining the country in scope.

XIV. Instructions concerning specific positions of Template S 04.02

Row	Legal references and instructions
0010	Transactions per day - average Transactions where either the location of the originator or the location of the beneficiary is within the Union.
0020	Of which made within the EU Transactions where both the location of the originator and the location of the beneficiary is within the Union.
0030	Of which received transaction to the EU Transactions where the location of the originator is outside of the Union and the location of the beneficiary is within the Union.
0040	Of which sent transaction from the EU Transactions where the location of the originator is within the Union and the location of the beneficiary is outside of the Union.

Column	Legal references and instructions
0010	Number The average number of transactions per day, calculated as the total number of transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period.
0020	Amount The average aggregate value of transactions per day, calculated as the sum of the values of all transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period.

XV. General remarks on Template S 04.03

27. In accordance with Article 22(1), point (c), of Regulation (EU) 2023/1114, Template S 04.03 shall include information on the average number and average aggregate value of transactions and transfers per day during the reporting period. The scope for the transactions and transfers in this template shall be the ones between non-custodial wallets or between non-custodial wallets and other types of distributed ledger addresses that are used for settlement purposes and are not controlled by a user or by a crypto asset service provider.

XVI. Instructions concerning specific positions of Template S 04.03

Row	Legal references and instructions

0010	Transactions between non-custodial wallets per day - average Transactions between non-custodial wallets, as defined in Article 2, point (3), of Delegated Regulation [C(2024) 6910], or between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of the asset-referenced token or by a crypto asset service provider shall be reported on a best effort basis, considering the limited information issuers might have on these transactions and related holders involved in such transactions.
0020	Transfers between non-custodial wallets per day - average Transfers between non-custodial wallets, as defined in Article 2, point (3), of Delegated Regulation [C(2024) 6910], or between non-custodial wallets and other types of distributed ledger addresses that are not controlled by a holder of the asset-referenced token or by a crypto asset service provider.

Column	Legal references and instructions
0010	Number The average number of transactions (or transfers for row 0020) per day, calculated as the total number of transactions (or transfers for row 0020) in scope in the reporting period and divide it with the number of calendar days in the reporting period.
0020	Amount The average aggregate value of transactions (or transfers for row 0020) per day, calculated as the sum of the values of all transactions (or transfers for row 0020) in scope in the reporting period and divide it with the number of calendar days in the reporting period. Calculating the value of the transactions and transfers in scope for this template shall follow the valuation method defined in Article 4(3) of Delegated Regulation [C(2024) 6910].

XVII. General remarks on Template S 04.04

28. Template S 04.04 shall include information on the methodology used for the estimation of the values reported in template S 04.03.

XVIII. Instructions concerning specific positions of Template S 04.04

Row	Legal references and instructions
0010	Methodology used for template S 04.03 Issuers shall provide a short description of the methodology used for the estimation of the values reported in template S 04.03.

PART V: TRANSACTIONS PER DAY THAT ARE ASSOCIATED TO USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA (S 05.00)**XIX. General remarks on Template S 05.00**

29. In accordance with Article 22(1), point (d), of Regulation (EU) 2023/1114, Template S 05.00 shall include information on the average number and average aggregate value of transactions per day during the reporting period, that are associated to uses of an asset-referenced token as a means of exchange within a single currency area.
30. This template shall follow the requirements set out in Delegated Regulation [C(2024) 6910].

31. This template shall be reported separately for each single currency area as specified in Article 3(5) of Delegated Regulation [C(2024) 6910].

XX. Instructions concerning specific positions of Template S 05.00

Row	Legal references and instructions
0010	Transactions per day - average For the single currency area determined by the z-axis, transactions that are within that single currency area, in accordance with Article 3(5) of Delegated Regulation [C(2024) 6910].

Column	Legal references and instructions
0010	Number The average number of transactions per day, calculated as the total number of transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period, in accordance with Delegated Regulation [C(2024) 6910].
0020	Amount The average aggregate value of transactions per day, calculated as the sum of the values of all transactions in scope in the reporting period and divide it with the number of calendar days in the reporting period, in accordance with Delegated Regulation [C(2024) 6910].

z-axis	Legal references and instructions
Name of the single currency area	This template shall be reported separately for each single currency area in scope. The z-axis shall provide all the different single currency areas based on the location of the holders involved in the transactions in scope, in accordance with Delegated Regulation [C(2024) 6910].

ANNEX III

REPORTING FOR CRYPTO-ASSET SERVICE PROVIDERS

CRYPTO-ASSET SERVICE PROVIDER TEMPLATES			
Template number	Template code	Adressees	Name of the template /group of templates
INFORMATION ON HOLDERS			
6	S 06.00	Crypto-asset service providers	INFORMATION ON HOLDERS
INFORMATION ON TRANSACTIONS			
7	S 07.01	Crypto-asset service providers	TRANSACTIONS DURING REPORTING PERIOD - TOTAL
7	S 07.02	Crypto-asset service providers	TRANSACTIONS DURING REPORTING PERIOD - TOTAL_EU
7	S 07.03	Crypto-asset service providers	TRANSACTIONS THAT ARE ASSOCIATED TO ITS USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA - TOTAL
7	S 07.04	Crypto-asset service providers	DISTRIBUTED LEDGER ADDRESSES FOR MAKING TRANSFERS ON BEHALF OF CLIENTS
INFORMATION ON TOKEN			
8	S 08.00	Crypto-asset service providers	TOKEN HELD BY CASP

		providers	

S 06.00 -	INFORMATION ON HOLDERS

Holders - at reference date				
Name	Code	Type of code	Retail/Non-retail	Country
0010	0020	0030	0040	0050

S 07.01 - TRANSACTIONS DURING REPORTING PERIOD - TOTAL			
Country:			
		Number	Amount
		0010	0020

Transactions during reporting period - total	0010		
of which made within the country	0020		
of which received transaction to the country	0030		
of which sent transaction from the country	0040		

S 07.02 -	TRANSACTIONS DURING REPORTING PERIOD - TOTAL_EU

		Number	Amount
		0010	0020
Transactions during reporting period - total	0010		
of which made within the EU	0020		
of which received transaction to the EU	0030		
of which sent transaction from the EU	0040		

S 07.03 -			
TRANSACTIONS THAT ARE ASSOCIATED TO ITS USES AS A MEANS OF EXCHANGE WITHIN A SINGLE CURRENCY AREA - TOTAL			
Single currency area:			
		Number	Amount

		0010	0020
Transactions during reporting period - total	0010		

S 07.04 -	DISTRIBUTED LEDGER ADDRESSES FOR MAKING TRANSFERS ON BEHALF OF CLIENTS

Distributed ledger address
0010

S 08.00 -	TOKEN HELD BY CASP

		Number	Amount
		0010	0020

Token held by CASP	0010		
of which held via EU clients of the CASP	0020		

ANNEX IV**REPORTING FOR CRYPTO-ASSET SERVICE PROVIDERS - INSTRUCTIONS***Table of Contents*

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PART I: GENERAL INSTRUCTIONS**I. Structure**

1. This Annex contains the instructions for the reporting of the templates for crypto-asset service providers.
2. This Annex consists of three different sets of templates:
 - (a) Information on holders (S 06.00);
 - (b) Information on transactions (S 07.01, S 07.02, S 07.03 and S 07.04);
 - (c) Information on token (S 08.00).
3. For each template, legal references are provided. Further detailed information regarding more general aspects of the reporting of each block of templates and instructions concerning specific positions are included in this part of the Implementing Regulation.
4. The following general notation is followed in the instructions: {Template; Row; Column; z-axis}.

II. Scope of reporting

- 5. Crypto-asset service providers shall provide to the issuers the information specified in this Annex, in accordance with Articles 1(2) and 3(2) of this Implementing Regulation.
- 6. Crypto-asset service providers shall provide the three sets of templates in this Annex to the respective issuers separately for each asset-referenced token following Article 22(3) of Regulation (EU) 2023/1114, indicating to the issuer which token is the subject of a particular submission, the identification code, reference or name of the token, where available, based on the published crypto-asset white paper for the token.

PART II: INFORMATION ON HOLDERS (S 06.00)

III. General remarks on Template S 06.00

- 7. Template S 06.00, following Article 22(3) of Regulation (EU) 2023/1114, contains the information on the holders that is necessary for the issuers to comply with the reporting requirements set out in this Implementing Regulation.
- 8. This template shall contain information as at the end of the reference date, in line with template S 01.00 'Number of holders – at reference date' for issuers as presented in Annex I and II of this Regulation. The country of a holder shall be determined by the holders' location as follows:
 - (a) for natural persons, their habitual residence;
 - (b) for legal persons, the registered office address.

IV. Instructions concerning specific positions of Template S 06.00

Column	Legal references and instructions
0010	Name The full name for natural persons and the official registered name for legal persons, including any references to the company type in accordance with the national company law, in accordance with the unique identifier provided of the holder in column 0020 of this template.
0020	Code The code as part of a row identifier must be unique for each reported entity. The code shall be unique and used consistently across the templates and across time. The code shall always have a value. The code of the holder, such as national identification number for natural persons or legal entity identifier (LEI) code for legal persons, or any other available applicable official identifier. If a LEI is available, this LEI shall be reported. In order to facilitate the data reconciliation process of the issuers, the following approach shall be considered when reporting the code. There are two lists consisting different types of codes, one for natural persons, and one for legal entities. Crypto-asset service providers shall report the first available type of code from the list specified in column 0030, starting from the 1st option on the list, then moving down one by one for the rest of the options, in case that type of identifier is not available of the holder.
0030	Type of code Types of codes of natural persons: 1. National identification number 2. National tax number 3. Passport number 4. Other type of identification number Types of codes of legal persons:

	1. Legal entity identifier (LEI) code 2. Official national registration number or European Unique Identifier (EUID) made available under Directive (EU) 2017/1132 of the European Parliament and of the Council ²⁴⁶ 3. Official registered tax number 4. Other type of identification number The type of code shall always be reported.
0040	Retail/Non-retail Include Retail or Non-retail, based on the holder in scope. Retail shall be included in case the holder in scope qualifies as a retail holder, as defined in Article 3(1), point 37, of Regulation (EU) 2023/1114. Non-retail shall be included otherwise.
0050	Country Include the name of the country of the holder in scope, in accordance with point 8 of this Annex.

Row	Legal references and instructions
	Crypto-asset service providers shall allocate one row for each specific holder in scope.

PART III: INFORMATION ON TRANSACTIONS (S 07.01, S 07.02, S 07.03 and S 07.04)

V. General remarks on Template S 07.01

9. Template S 07.01, following Article 22(3) of Regulation (EU) 2023/1114, contains the information on the transactions that is necessary for the issuers to comply with the reporting requirements set out in this Implementing Regulation. Template S 07.01 shall include information on the total number and total aggregate value of transactions during the reporting period, presented separately for the countries in the scope of reporting.
10. Crypto-asset service providers shall follow the below approach for determining which transactions to include in the scope of this template:
 - (a) Transactions, where the crypto-asset service provider is involved and acts as the crypto-asset service provider of the beneficiary or payee of the transaction. In these cases, the originator or payer of the transaction is either also interacting via a crypto-asset service provider; or without crypto-asset service provider involvement, for example via its non-custodial wallet.
 - (b) Transactions, where the crypto-asset service provider is involved and acts as the crypto-asset service provider of the originator or payer of the transaction. In these cases, the beneficiary or payee of the transaction is interacting without a crypto-asset service provider involvement, for example via its non-custodial wallet. These types of transactions are calculated and reported on a best effort basis, due to the limited information the crypto-asset service provider of the originator or payer of the transaction might have on both of the holders involved in the transfers.
11. The location of the originator and the beneficiary involved in the transactions shall be, following the approach for defining the country of the holders in template S 01.00 'Number of holders – at reference date', as follows:
 - (a) for natural persons, their habitual residence;

²⁴⁶ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46, ELI: <http://data.europa.eu/eli/dir/2017/1132/oj>).

- (b) for legal persons, the registered office address.
- 12. Those transactions shall be in scope of this template, where at least one of the holders involved in the transaction is located within the Union. In addition, when the token references an official currency of one of the Member States of the Union, transactions where both of the holders involved are located outside of the Union shall also be included in the scope of reporting.
- 13. The issuer shall determine the value of the transactions following the valuation method defined in Article 4(3) of Delegated Regulation [(2024) 6910].
- 14. Template S 07.01 shall include a breakdown for the transactions:
 - (a) of which made within the country;
 - (b) of which received transaction to the country;
 - (c) of which sent transaction from the country.
- 15. Template S 07.01 shall be reported separately for each country related to the transactions. The countries of a transaction are the countries of residence of the holders involved in the transaction, including the country of the originator and the country of the beneficiary of the transaction.

VI. Instructions concerning specific positions of Template S 07.01

Row	Legal references and instructions
0010	Transactions during reporting period - total For the country determined by the z-axis, transactions where either the location of the originator or the location of the beneficiary is within that country.
0020	Of which made within the country For the country determined by the z-axis, transactions where both the location of the originator and the location of the beneficiary is within that country.
0030	Of which received transaction to the country For the country determined by the z-axis, transactions where the location of the originator is outside of that country and the location of the beneficiary is within that country.
0040	Of which sent transaction from the country For the country determined by the z-axis, transactions where the location of the originator is within that country and the location of the beneficiary is outside of that country.

Column	Legal references and instructions
0010	Number The total number of transactions in the reporting period.
0020	Amount The total aggregate value of transactions in the reporting period.

VII. General remarks on Template S 07.02

- 16. The only difference between Template S 07.02 and Template S 07.01 is that Template S 07.02 is for all the transactions in the EU, including in and outflow transactions, and therefore does not have the z-axis determining the country in scope.

VIII. Instructions concerning specific positions of Template S 07.02

Row	Legal references and instructions
0010	Transactions during reporting period - total Transactions where either the location of the originator or the location of the beneficiary is within the Union.
0020	Of which made within the EU Transactions where both the location of the originator and the location of the beneficiary is within the Union.
0030	Of which received transaction to the EU Transactions where the location of the originator is outside of the Union and the location of the beneficiary is within the Union.
0040	Of which sent transaction from the EU Transactions where the location of the originator is within the Union and the location of the beneficiary is outside of the Union.

Column	Legal references and instructions
0010	Number The total number of transactions in the reporting period.
0020	Amount The total aggregate value of transactions in the reporting period.

IX. General remarks on Template S 07.03

17. Template S 07.03, following Article 22(3) of Regulation (EU) 2023/1114, contains the information on the transactions that is necessary for the issuers to comply with the reporting requirements set out in this Implementing Regulation. For this template those transactions shall be in scope, that are associated to uses of the asset-referenced token as a means of exchange, following Article 22(1), point (d), of Regulation (EU) 2023/1114.
18. This template shall follow the requirements set out by Delegated Regulation [(2024) 6910].
19. This template shall be reported separately for each single currency area as specified in Article 3(5) of Delegated Regulation [(2024) 6910].

X. Instructions concerning specific positions of Template S 07.03

Row	Legal references and instructions
0010	Transactions during reporting period - total For the single currency area determined by the z-axis, transactions that are within that single currency area, in accordance with Article 3(5) of Delegated Regulation [(2024) 6910].

Column	Legal references and instructions
0010	Number The total number of transactions in the reporting period.

0020	Amount The total aggregate value of transactions in the reporting period.

z-axis	Legal references and instructions
Name of the single currency area	This template shall be reported separately for each single currency area in scope. The z-axis shall provide all the different single currency areas based on the location of the holders involved in the transactions in scope, in accordance with Article 3(5) of Delegated Regulation [(2024) 6910].

XI. General remarks on Template S 07.04

20. Crypto-asset service providers shall provide to the issuers the public distributed ledger addresses they use for making transfers on behalf of their clients. That is to make it easier for issuers to identify which transactions registered on the distributed ledger take place between non-custodial wallets, to provide more information to the issuers for reporting their templates as specified in Annex I and II of this Implementing Regulation, especially S 04.03 'Transactions and transfers per day between non-custodial wallets – average'. Template S 07.04 'Distributed ledger addresses for making transfers on behalf of clients' provides this information to the issuers.

XII. Instructions concerning specific positions of Template S 07.04

Column	Legal references and instructions
0010	Distributed ledger address The public distributed ledger addresses that the crypto-asset service provider uses for making transfers on behalf of their clients.

Row	Legal references and instructions
	Crypto-asset service providers shall allocate one row for each distributed ledger address in scope.

PART IV: INFORMATION ON TOKEN (S 08.00)**XIII. General remarks on Template S 08.00**

21. Template S 08.00 shall include information on the number and amount of the token in scope for the reporting templates, that are held by the crypto-asset service provider, and within that to specify the number and amount of those tokens held by EU clients of the crypto-asset service provider. This information shall be shared with the issuer, for the issuer to accurately calculate its aggregated value of their token issued in the EU and related reserve of assets, especially in case the respective token is issued on an international scale outside of the EU as well.

XIV. Instructions concerning specific positions of Template S 08.00

Row	Legal references and instructions
0010	Token held by CASP Those tokens that are held by the crypto-asset service provider.
0020	of which held via EU clients of the CASP Those tokens held by the crypto-asset service provider, which are held by Union clients of the crypto-asset

	service provider.

Column	Legal references and instructions
0010	Number The number of tokens in scope.
0020	Amount The amount of the tokens in scope. The value of the tokens shall be determined following the valuation method defined in Article 4(3) of Delegated Regulation [(2024) 6910].

ANNEX V

Part I: Single Data Point Model

All data items set out in Annexes I and II to this Regulation shall be transformed into a single data point model.

The single data point model shall meet the following criteria:

- (a) It provides a structured representation of all data items set out in Annex I;
- (b) It identifies all the business concepts set out in Annex II;
- (c) It provides a data dictionary identifying table labels, ordinate labels, axis labels, domain labels, dimension labels and member labels;
- (d) It provides metrics, which define the property or amount of data points;
- (e) It provides data point definitions that are expressed as a composition of characteristics that univocally identify the concept;
- (f) it contains all the relevant technical specifications necessary for developing IT reporting solutions producing uniform supervisory data.

Part II: Validation rules

The data items set out in Annexes I and II to this Regulation shall be subject to validation rules ensuring data quality and consistency.

The validation rules shall meet the following criteria:

- (a) They define the logical relationships between relevant data points;
- (b) They include filters and preconditions that define a set of data to which a validation rule applies;
- (c) They check the consistency of the reported data;
- (d) They check the accuracy of the reported data;
- (e) They set default values, which shall be applied where the relevant information has not been reported.

APPENDIX 31: COMMISSION IMPLEMENTING REGULATION (EU) 2024/2984**of 29 November 2024****laying down implementing technical standards for the application of
Regulation (EU) 2023/1114 of the European Parliament and of the Council
with regard to forms, formats and templates for the crypto-asset white
papers**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁴⁷, and in particular Article 6(11), third subparagraph, Article 19(10), third subparagraph, and Article 51(10) third subparagraph, thereof,

Whereas:

- (1) In accordance with Regulation (EU) 2023/1114 it is necessary to establish standard forms, formats and templates for crypto-asset white papers so that they can be made available in a machine-readable format. Those templates should provide for data fields for the information to be included in the crypto-asset white papers in accordance with that Regulation.
- (2) To avoid duplication of requirements and reduce the compliance burden, where a valid legal entity identifier code is provided in the crypto-asset white paper, it should not be required for the crypto-asset white paper to contain the information that is retrievable from that legal entity identifier. That concerns the following information: legal form, registered address and head office (where different) and identity of the parent company of the issuer.
- (3) To ensure a unique and consistent identification of the crypto-asset service provider, a crypto-asset service provider identifier is necessary in addition to the name of crypto-asset service provider. To obtain authorisation as a crypto-asset service provider, a legal entity identifier is required in accordance with Article 62(2), point (a), of Regulation (EU) 2023/1114. Therefore, for the identification of crypto asset service providers, its legal entity identifier should be provided.
- (4) To avoid duplication of requirements and reduce the compliance burden, where a valid Digital Token Identifier is provided in the crypto-asset white paper, it should not be required for the crypto-asset white paper to contain data that is retrievable from the Digital Token Identifier Foundation Registry. That concerns the following information: crypto-asset's name and abbreviation, commercial name or trading name of the issuer, and distributed ledger technology.
- (5) To further facilitate the analysis and comparability of the crypto-asset white papers, they should be marked up using eXtensible Business Reporting Language (XBRL). XBRL is a machine-readable format which allows

²⁴⁷ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

for the automated consumption of large amount of information. It is well established and in use in a number of jurisdictions.

- (6) To ensure the protection of retail investors, crypto-asset white papers should be human readable and easily accessible without specialised software. The use of Inline XBRL technology for embedding XBRL markups in XHTML documents enables such documents to be at the same time machine-readable and human readable.
- (7) The use of XBRL requires the development of a taxonomy. To achieve a harmonised approach to the use of XBRL, the elements of the taxonomy to be used for the crypto-asset white papers should be exclusively the fields included in the standardised templates.
- (8) The taxonomy for the use of XBRL is accessed in the form of XBRL files ('XBRL taxonomy files'), which provide a structured representation of the fields to be reported. The fields and their appropriate data type should be made available in a simple human-readable form. It is important that persons drawing up a crypto-asset white paper use XBRL taxonomy files that comply with all applicable technical and legal requirements. To facilitate compliance and to enhance transparency, the European Securities and Markets Authority ('ESMA') should publish the XBRL taxonomy files on its website in a machine-readable and freely downloadable format.
- (9) To allow time to adapt to the requirements related to the preparation of the white paper in the machine-readable format, it is necessary to defer the date of application of this Regulation by 12 months. Persons drawing up the white papers should be required to publish the relevant white papers on their websites in separate sections titled 'white papers' in accordance with the requirements laid down respectively in Articles 6, 19 and 51 of Regulation (EU) 2023/1114 and in Annexes I, II and III to that Regulation from the date of entry into application of the relevant provisions set out in Regulation (EU) 2023/1114.
- (10) This Regulation is based on the draft implementing technical standards, developed by ESMA in cooperation with the European Banking Authority, submitted to the Commission by ESMA.
- (11) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁴⁸,

HAS ADOPTED THIS REGULATION:

Article 1

Templates for crypto-asset white papers

1. Persons drawing up a crypto-asset white paper referred to in Article 6(1), Article 19(1) or Article 51(1) of Regulation (EU) 2023/1114 shall provide the information required by this Regulation in a manner that is non-discriminatory, fair, clear and not misleading, presented in a concise and comprehensible form and shall not omit material information.

²⁴⁸ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

2. The templates for the white papers for crypto-assets other than asset-referenced tokens or e-money tokens, for asset-referenced tokens and for e-money tokens are set out in the Annex respectively.

Article 2

Format of the crypto-asset white paper

1. Crypto-asset white papers shall be drawn up in XHTML format marking the fields set out in the Annex using Inline XBRL 1.1 specifications of the eXtensible Business Reporting Language (XBRL) and shall comply with the following requirements:

- (a) the Inline XBRL instance document containing the crypto-asset white paper shall be submitted as a single XHTML file;
 - (b) issuers of a crypto-asset referred to in Article 19(1) and Article 51(1) of Regulation (EU) 2023/1114 shall be indicated in the Inline XBRL instance document using the ISO 17442 legal entity identifier, where available;
 - (c) persons drawing up a crypto-asset white paper referred to in Article 6(1), and other persons than the issuer drawing up a crypto-asset white paper referred to in Article 19(1) and Article 51(1) of Regulation (EU) 2023/1114 shall be indicated in the Inline XBRL instance document using the ISO 17442 legal entity identifier, where available, or another identifier required pursuant to applicable national law.
2. Taxonomy shall be used for the drawing up of a crypto-asset white paper and the elements shall be those set out in Table 2, Table 3 or Table 4 of the Annex.

Article 3

Taxonomy files

ESMA may publish machine-readable and downloadable XBRL taxonomy files based on the taxonomy referred to in Article 2(2).

Article 4

Entry into force and application

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

It shall apply from 23 December 2025.

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

Done at Brussels, 29 November 2024.

ANNEX

TEMPLATES FOR THE CRYPTO-ASSET WHITE PAPERS

Table 1

Legend for Tables 2, 3 and 4

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{CFI_CODE}	6 characters	ISO 10962 CFI code
{COUNTRYCODE_2}	2 alphanumerical characters	2 letter country code, as defined by ISO 3166-1 alpha-2 country code
{CURRENCYCODE_3}	3 alphanumerical characters	3 letter currency code, as defined by ISO 4217 currency codes
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh: mm:ss.ddddddZ. — 'YYYY' is the year;kos — 'MM' is the month; — 'DD' is the day; — 'T' – means that the letter 'T' shall be used — 'hh' is the hour; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.

{DATEFORMAT}	ISO 8601 date format	Dates shall be formatted in the following way: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. — decimal separator is '.' (full stop); — negative numbers are prefixed with '-' (minus); Values are rounded and not truncated.
{DTI}	9 alphanumerical characters	Digital token identifier as defined in ISO 24165 standard
{DURATION}	3 characters	Represents a duration of time expressed as number of days.
{INTEGER-n}	Integer number of up to n digits in total	Numerical field for integer values.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166 standard
{LEI}	20 alphanumerical characters	Legal entity identifier as defined in ISO 17442 standard
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Table 2

Template for white papers for crypto-assets other than asset-referenced tokens or e-money tokens

No	FIELD	CONTENT TO BE REPORTED	FORM AND STANDARDS TO BE USED FOR REPORTING
00	Table of contents	Table of contents	Alphanumerical text
01	Date of notification	Date of notification	YYYY-MM-DD
02	Statement in accordance with Article 6(3) of Regulation (EU) 2023/1114	Regarding offerors: This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset white	Predefined alphanumerical text

		paper.' Regarding the persons seeking admission to trading: 'This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The person seeking admission to trading of the crypto-asset is solely responsible for the content of this crypto-asset white paper.' Regarding the operators of trading platforms: 'This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The operator of the trading platform of the crypto-asset is solely responsible for the content of this crypto-asset white paper.'	
03	Compliance statement in accordance with Article 6(6) of Regulation (EU) 2023/1114	'This crypto-asset white paper complies with Title II of Regulation (EU) 2023/1114 of the European Parliament and of the Council and, to the best of the knowledge of the management body, the information presented in the crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.'	Predefined alphanumerical text
04	Statement in accordance with Article 6(5), points (a), (b), (c), of Regulation (EU) 2023/1114	'The crypto-asset referred to in this crypto-asset white paper may lose its value in part or in full, may not always be transferable and may not be liquid.'	Predefined alphanumerical text
05	Statement in accordance with Article 6(5), point (d), of Regulation	'The utility token referred to in this white paper may not be exchangeable against the good or service promised in this white paper, especially in the case of a failure or discontinuation of the crypto-asset project.'	'true' – Yes 'false' – Not applicable If Yes, Predefined alphanumerical text

	(EU) 2023/1114		
06	Statement in accordance with Article 6(5), points (e) and (f), of Regulation (EU) 2023/1114	The crypto-asset referred to in this white paper is not covered by the investor compensation schemes under Directive 97/9/EC of the European Parliament and of the Council or the deposit guarantee schemes under Directive 2014/49/EU of the European Parliament and of the Council.	Predefined alphanumerical text
SUMMARY			
07	Warning in accordance with Article 6(7), second subparagraph, of Regulation (EU) 2023/1114	'Warning This summary should be read as an introduction to the crypto-asset white paper. The prospective holder should base any decision to purchase this crypto –asset on the content of the crypto-asset white paper as a whole and not on the summary alone. The offer to the public of this crypto-asset does not constitute an offer or solicitation to purchase financial instruments and any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law. This crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 of the European Parliament and of the Council or any other offer document pursuant to Union or national law.'	Predefined alphanumerical text
08	Characteristics of the crypto-asset	A brief, clear and non-technical description of the characteristics of the crypto asset including information about rights and obligations of the purchaser, procedure and conditions for the exercise of those rights and	Free alphanumerical text

		conditions, if any, under which these rights and obligations may be modified.	
09		Only applicable if field 05 is true. Information about the quality and quantity of goods or services to which the utility tokens give access and restrictions on the transferability.	Free alphanumerical text
10	Key information about the offer to the public or admission to trading	A brief and non-technical description of the offer to the public including information about the amount of the offer, including, where applicable, any minimum and maximum target subscription goals, issue price of the crypto-asset and subscription fees, the total number of crypto-assets to be offered; prospective holders; description, where applicable, of the various phases of the offer to the public of crypto-assets, including information on discounted purchase price for early purchasers of crypto-assets and subscription period. When applicable, the name of the crypto-asset service provider in charge of the placing of crypto-assets and the form of such placement (with or without a firm commitment basis); When applicable, a brief and non-technical description of the admission to trading, including the name of the trading platform for which the admission is sought.	Free alphanumerical text
Part A - Information about the offeror or the person seeking admission to trading			
A.1	Name	Name	Free alphanumerical text
A.2	Legal form	Only applicable if a (LEI) is not provided in field A.6	ISO standard 20275 'Financial Services – Entity Legal Forms (ELF)'

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		Legal form	
A.3	Registered address	Only applicable if a legal entity identifier is not provided in field A.6 Address and country of registration	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.4	Head office	Only applicable if an LEI is not provided in field A.6 Address and country of the Head office, where different than registered address	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.5	Registration date	Date of the registration	ISO 8601 date format (YYYY-MM-DD)
A.6	Legal entity identifier	Legal entity identifier of the offeror or person seeking admission to trading, when available	{LEI}
A.7	Another identifier required pursuant to applicable national law	Field to be filled in only if a legal entity identifier is not provided in field A.6. National identifier based on the nationality of the offeror or the person seeking admission to trading, if required under the applicable national law. This field only applies to entities for which a national identifier is required in accordance with applicable national law.	Free text
A.8	Contact telephone number	Contact telephone number of the offeror or the person seeking admission to trading	Free alphanumerical text
A.9	E-mail address	E-mail address of the offeror or the person seeking admission to trading	Free alphanumerical text
A.10	Response time (Days)	Period of days within which an investor will receive an answer via that telephone number or e-mail address	{DURATION}
A.11	Parent company	Field to be filled in only if a legal entity identifier is not provided in field A.6	Free alphanumerical text

		Where applicable, the name of the parent company	
A.12	Members of the management body	Identity, business address and functions of each person that is member of the management body, as defined in Article 3(1), point (27), of Regulation (EU) 2023/1114, of the offeror or the person seeking admission to trading	Free alphanumerical text presented in a tabular format
A.13	Business activity	Business or professional activity of the offeror or person seeking admission to trading	Free alphanumerical text
A.14	Parent company business activity	Where applicable, business or professional activity of the parent company, including principal activities and principal markets	Free alphanumerical text
A.15	Newly established	Indication as to whether the offeror or person seeking admission to trading has been established for the past three years	'true' – Yes 'false' – No
A.16	Financial condition for the past three years	Where the offeror or person seeking admission to trading has been established for the past three years, the financial condition of the offeror or person seeking admission to trading over the past three years. This shall be assessed based on a fair review of the development and performance of the business of the offeror or person seeking admission to trading and of its position for each year and interim period for which historical financial information is required, including the causes of material changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the offeror or person seeking admission to trading and of its position, consistent with the size and complexity of the business.	Free alphanumerical text

A.17	Financial condition since registration	Where the offeror or person seeking admission to trading has not been established for the past three years, description of its financial condition since the date of its registration. This shall be assessed based on a fair review of the development and performance of the business of the offeror or person seeking admission to trading and of its position for each year and interim period for which historical financial information is available, including the causes of material changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the offeror or person seeking admission to trading and of its position, consistent with the size and complexity of the business.	Free alphanumeric text
<i>Part B - Information about the issuer, if different from the offeror or person seeking admission to trading</i>			
B.1	Issuer different from offeror or person seeking admission to trading	Indication as to whether the issuer is different from the offeror or person seeking admission to trading	'true' – Yes 'false' – No
B.2	Name	Name	Free alphanumeric text
B.3	Legal form	Field to be filled in only if an LEI is not provided in field B.7 Legal form	ISO standard 20275 'Financial Services – Entity Legal Forms (ELF)'
B.4	Registered address	Field to be filled in only if an LEI is not provided in field B.7 Address and country of registration	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumeric text

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B.5	Head office	Field to be filled in only if an LEI is not provided in field B.7 Address of the Head office, where different than registered address	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
B.6	Registration date	Date of the registration	ISO 8601 date format (YYYY-MM-DD)
B.7	Legal entity identifier	Legal entity identifier of the issuer, where available	{LEI}
B.8	Another identifier required pursuant to applicable national law	Field to be filled in only if a legal entity identifier is not provided in field B.7. National identifier based on the nationality of the issuer, if required under the applicable national law This field only applies to entities for which a national identifier is required under applicable national law	Free text
B.9	Parent company	Field to be filled in only if an LEI is not provided in field B.7 Where applicable, the name of the parent company	Free alphanumerical text
B.10	Members of the management body	Identity, business address and functions of each of the persons that are members of the management body, as defined in Article 3(1), point (27), of Regulation (EU) 2023/1114, of the issuer	Free alphanumerical text presented in a tabular format
B.11	Business activity	Business or professional activity of the issuer	Free alphanumerical text
B.12	Parent company business activity	Where applicable, business or professional activity of the parent company	Free alphanumerical text
<i>Part C- Information about the operator of the trading platform in cases where it draws up the crypto-asset white paper and information about other persons drawing the crypto-asset white paper pursuant to Article 6(1), second subparagraph, of Regulation (EU) 2023/1114</i>			
C.1	Name	Name	Free alphanumerical text
C.2	Legal form	Field to be filled in only if an LEI is not provided in field C.6	ISO standard 20275 'Financial Services – Entity Legal Forms (ELF)'

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		Legal form	
C.3	Registered address	Field to be filled in only if an LEI is not provided in field C.6 Address of registration	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
C.4	Head office	Field to be filled in only if an LEI is not provided in field C.6 Address of the Head office, where different than registered address	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
C.5	Registration date	Date of the registration	ISO 8601 date format (YYYY-MM-DD)
C.6	Legal entity identifier	Legal entity identifier of the operator of the trading platform	{LEI}
C.7	Another identifier required pursuant to applicable national law	National identifier based on the nationality of the issuer, if required under the applicable national law. This field only applies to entities for which a national identifier is required under applicable national law.	Free text
C.8	Parent company	Field to be filled in only if an LEI is not provided in field C.6 Where applicable, the name of the parent company	Free alphanumerical text
C.9	Reason for crypto-Asset white paper Preparation	The reason why the operator of the trading platform drew up the crypto-asset white paper	Free alphanumerical text
C.10	Members of the Management body	Identity (name or other identifiers), business address and functions of each of the persons that are members of the management body, as defined in Article 3(1), point (27), of Regulation (EU) 2023/1114, of the operator of the trading platform	Free alphanumerical text presented in a tabular format
C.11	Operator business activity	Business or professional activity of the operator, including principal activities and principal markets	Free alphanumerical text

C.12	Parent company business activity	Where applicable, business or professional activity of the parent company, including principal activities and principal markets	Free alphanumerical text
C.13	Other persons drawing up the crypto-asset white paper according to Article 6(1), second subparagraph, of Regulation (EU) 2023/1114	Where different from the offeror, person seeking admission to trading, issuer, or operator of the trading platform, indication of the identity of the person drawing up the crypto-asset white paper	Free alphanumerical text
C.14	Reason for drawing the white paper by persons referred to in Article 6(1), second subparagraph, of Regulation (EU) 2023/1114	Where the white paper is drawn up by a person different from the offeror, person seeking admission to trading, issuer, or operator of the trading platform, reason for drawing up the white paper	Free alphanumerical text
<i>Part D- Information about the crypto-asset project</i>			
D.1	Crypto-asset project name	Name of the crypto-asset project, if different from the name of the offeror or person seeking admission to trading	Free alphanumerical text
D.2	Crypto-assets name	Field to be filled in only if a Digital Token Identifier (DTI) is not provided in field F.13. Name of the crypto-assets, if different from the name of the offeror or person seeking admission to trading	Free alphanumerical text
D.3	Abbreviation	Field to be filled in only if a DTI is not provided in field F.13. Abbreviation or ticker handler	Free alphanumerical text

D.4	Crypto-asset project description	A brief description of the crypto-asset project	Free alphanumerical text
D.5	Details of all natural or legal persons involved in the implementation of the crypto-asset project	Details of advisors, development team, crypto-assets service providers and other persons involved in the implementation of the crypto-asset project, including business addresses or domicile of the company	Free alphanumerical text presented in a tabular format
D.6	Utility Token Classification	Indication as to whether the crypto-asset project concerns utility tokens	'true' – Yes 'false' – No
D.7	Key Features of Goods/Services for Utility Token Projects	Where applicable, key features of the goods or services to be developed for utility tokens crypto-asset projects	Free alphanumerical text
D.8	Plans for the token	Information about the crypto-asset project, including the description of the past and future milestones	Free alphanumerical text
D.9	Resource allocation	Where applicable, information about resources, including financial resources, already allocated to the project	Free alphanumerical text
D.10	Planned use of Collected funds or crypto-Assets	Where applicable, planned use of any funds or other crypto-assets collected	Free alphanumerical text
<i>Part E - Information about the offer to the public of crypto-assets or their admission to trading</i>			
E.1	Public offering or admission to trading	Indication as to whether the crypto-asset white paper concerns an offer to the public of crypto-assets or their admission to trading	'OTPC' - offer to the public 'ATTR' - admission to trading
E.2	Reasons for public offer or admission to trading	The reasons for the offer to the public or for seeking admission to trading, including the planned use of the funds or other crypto assets collected	Free alphanumerical text

E.3	Fundraising target	Where applicable, the amount that the offer to the public intends to raise in funds or in any other crypto-asset in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} Or Numerical {INTEGER-n}
E.4	Minimum subscription goals	Where applicable, minimum subscription goals set for the offer to the public of the crypto-assets in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} Or Numerical {INTEGER-n}
E.5	Maximum subscription goals	Where applicable, any maximum target subscription goals set for the offer to the public of the crypto-assets in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} Or Numerical {INTEGER-n}
E.6	Oversubscription acceptance	Indication whether oversubscriptions are accepted	'true'- Yes 'false' – No
E.7	Oversubscription allocation	Where oversubscriptions are accepted, a description of how they are allocated	Free alphanumerical text
E.8	Issue price	The issue price of the crypto-asset being offered to the public in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} Or Numerical {INTEGER-n}
E.9	Official currency or any other crypto-assets determining the issue price	The official currency or any other crypto-assets on the basis of which the issue price of the crypto asset is being offered to the public	{CURRENCYCODE_3} Or {DTI}
E.10	Subscription fee	Any applicable subscription fee in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} Or Numerical {INTEGER-n}
E.11	Offer price determination	Method in accordance with which the offer price will be	Free alphanumerical text

	method	determined	
E.12	Total number of offered/traded crypto-assets	Where applicable, the total number of crypto-assets to be offered to the public or admitted to trading	Numerical {INTEGER-n}
E.13	Targeted holders	Indication of the prospective holders targeted by the offer to the public of the crypto-asset or admission of such crypto-asset to trading	'RETL' – retail investors 'PROF' – professional investors 'ALL' – all types of investors
E.14	Holder restrictions	Indication of any restriction as regards the type of holders for such crypto-asset	Free alphanumerical text
E.15	Reimbursement notice	'Purchasers participating in the offer to the public of crypto-asset will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, if they exercise the right to withdrawal provided for in Article 13 of Regulation (EU) 2023/1114 of the European Parliament and of the Council or if the offer is cancelled'	Predefined alphanumerical text
E.16	Refund mechanism	Detailed description of the refund mechanism	Free alphanumerical text
E.17	Refund timeline	Expected timeline of when the refunds will be completed	Free alphanumerical text
E.18	Offer phases	Information about the various phases of the offer to the public of the crypto-asset	Free alphanumerical text
E.19	Early purchase discount	Information on discounted purchase price for early purchasers of the crypto-asset - (pre-public sales) and in the case of discounted purchase price for some purchasers, an explanation as to why the purchase prices may be different and a description of the impact on the other investors	Free alphanumerical text
E.20	Time-limited offer	Indication whether the offer is time-limited	'true'- Yes

			'false' – No
E.21	Subscription period beginning	For time-limited offers, the beginning of the subscription period during which the offer to the public is open	ISO 8601 date format (YYYY-MM-DD)
E.22	Subscription period end	For time-limited offers, the end of the subscription period during which the offer to the public is open	ISO 8601 date format (YYYY-MM-DD)
E.23	Safeguarding arrangements for offered funds/crypto-Assets	The arrangements to safeguard funds or other crypto-assets as referred to in Article 10 of Regulation (EU) 2023/1114 during the time-limited offer to the public or during the withdrawal period	Free alphanumerical text
E.24	Payment methods for crypto-asset purchase	Methods of payment to purchase the crypto-assets	Free alphanumerical text
E.25	Value transfer methods for reimbursement	Methods of transfer of the value to the purchasers when they are entitled to be reimbursed	Free alphanumerical text
E.26	Right of withdrawal	In the case of offers to the public, information on the right of withdrawal as referred to in Article 13 of Regulation (EU) 2023/1114	Free alphanumerical text
E.27	Transfer of purchased crypto-assets	Manner of transferring purchased crypto-assets to the holders	Free alphanumerical text
E.28	Transfer time schedule	Time schedule of transferring purchased crypto-assets to the holders	ISO 8601 date format (YYYY-MM-DD)
E.29	Purchaser's technical requirements	Information about technical requirements that the purchaser is required to fulfil to hold the crypto-assets	Free alphanumerical text
E.30	Crypto-asset service provider (CASP) name	Where applicable, the name of the crypto-asset service provider (CASP) in charge of the placing of crypto-assets	Free alphanumerical text
E.31	CASP identifier	The legal entity identifier of the crypto-asset service	{LEI}

		provider in charge of the placing of crypto-assets	
E.32	Placement form	Where applicable, the form of the placement	'WITH- with a firm commitment basis 'WOUT' - without a firm commitment basis 'NTAV' - Not applicable
E.33	Trading platforms name	Where applicable, the name of the trading platforms for crypto-assets where admission to trading is sought	Free alphanumerical text
E.34	Trading platforms Market identifier code (MIC)	Segment MIC for the trading platform where the admission to trading of the crypto-assets is sought.	{MIC}
E.35	Trading platforms access	Where applicable, information about how investors can access the trading platforms	Free alphanumerical text
E.36	Involved costs	Where applicable, information about the costs involved in relation to the access of investors to the trading platforms	Free alphanumerical text
E.37	Offer expenses	Expenses related to the offer to the public of crypto-assets, in an official currency or any other crypto-assets. If more than one type of offer expense, expenses should be presented in a tabular format	Free alphanumerical text and Amount in monetary value {DECIMAL-18/3}
E.38	Conflicts of interest	Potential conflicts of interest of the persons involved in the offer to the public or admission to trading, arising in relation to the offer or admission to trading	Free alphanumerical text
E.39	Applicable law	The law applicable to the offer to the public of the crypto-asset	Drop-down list of applicable laws
E.40	Competent court	Competent court	Free alphanumerical text
<i>Part F - Information about the crypto-assets</i>			
F.1	Crypto-asset type	The type of crypto-asset that will be offered to the public	Free alphanumerical text

		or for which admission to trading is sought	
F.2	Crypto-asset functionality	A description of the functionality of the crypto-assets being offered or admitted to trading	Free alphanumeric text
F.3	Planned application of functionalities	Information about when the functionalities of the crypto-assets being offered or admitted to trading are planned to apply	Free alphanumeric text
<i>A description of the characteristics of the crypto-asset, including the data necessary for classification of the crypto-asset white paper in the register referred to in Article 109 of Regulation (EU) 2023/1114, as specified in accordance with paragraph 8 of that Article</i>			
F.4	Type of crypto-asset white paper	The type of white paper notified	OTHR
F.5	The type of submission	Type of submission	NEWT = New MODI = Modify EROR = Error CORR = Correction
F.6	Crypto-asset characteristics	A description of the characteristics of the crypto-asset	Free alphanumeric text
F.7	Commercial name or trading name	Field to be filled in only if a DTI is not provided in field F.13. Commercial name or trading name of the issuer.	Free alphanumeric text
F.8	Website of the issuer	Website of the issuer	Free alphanumeric text
F.9	Starting date of offer to the public or admission to trading	Starting date or, if not available at the time of the notification by the competent authority, the intended starting date of offer to the public or admission to trading.	YYYY-MM-DD
F.10	Publication date	Effective or intended publication date of the crypto-asset white paper or of the modified white paper	YYYY-MM-DD

F.11	Any other services provided by the issuer	Any other services provided by the issuer not covered by Regulation (EU) 2023/1114, with a reference to the applicable Union or national legal acts regulating those services	Free alphanumeric text
F.12	Language or languages of the crypto-asset white paper	Language or languages in which the crypto-asset white paper is drafted When multiple languages have been used, this field shall be reported as many times as necessary	Closed list of EU languages
F.13	Digital token identifier code used to uniquely identify the crypto-asset or each of the several crypto assets to which the white paper relates, where available	Code used to uniquely identify the crypto-asset or each of the several crypto assets to which the crypto-asset white paper relates, where available	ISO 24165 Digital Token Identifier
F.14	Functionally fungible group digital token identifier, where available	Code used to uniquely identify the functionally fungible group to which the digital asset belongs (i.e., common to each of the several assets to which the white paper relates, i.e. Code used to identify the white paper ISO 24165 DTI of type = 3 (i.e., functionally fungible group), where available	ISO 24165 FFG DTI
F.15	Voluntary data flag	Flag indicating the mandatory or voluntary nature of the crypto-asset white paper provided for in Article 4(8) of Regulation (EU) 2023/1114	'true' – voluntary 'false' – mandatory
F.16	Personal data flag	Flag indicating if the submitted white paper contains personal data	'true' – Yes 'false' – No
F.17	LEI eligibility	Indication that the issuer is eligible for a Legal Entity Identifier	'true' – eligible 'false' – not eligible

F.18	Home Member State	Home Member State as defined in Article 3(1), point (33), of Regulation (EU) 2023/1114	Closed list of EU Member States
F.19	Host Member States	Host Member State as defined in Article 3(1), point (34), of Regulation (EU) 2023/1114	Closed list of EU Member States
<i>Part G - Information on the rights and obligations attached to the crypto-assets</i>			
G.1	Purchaser rights and obligations	A description of the rights and obligations, if any, of the purchaser	Free alphanumerical text
G.2	Exercise of rights and obligations	Procedure and conditions for the exercise of rights	Free alphanumerical text
G.3	Conditions for modifications of rights and obligations	Description of the conditions under which the rights and obligations may be modified	Free alphanumerical text
G.4	Future public offers	Where applicable, information on the future offers to the public of crypto-assets by the issuer	Free alphanumerical text
G.5	Issuer retained crypto-assets	Where applicable, information on the number of crypto-assets retained by the issuer itself	Numerical {INTEGER-n}
G.6	Utility token classification	Indication as to whether the offer to the public of crypto-assets or their admission to trading concerns utility tokens	'true' – Yes 'false' – No
G.7	Key features of goods/services of utility tokens	Information about the quality and quantity of goods or services to which the utility tokens give access	Free alphanumerical text
G.8	Utility tokens redemption	Only applicable if field G.6 is true. Information on how utility tokens can be redeemed for goods or services to which they relate	Free alphanumerical text
G.9	Non-trading request	Indication whether an admission to trading is sought	'true' – sought

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			'false' – not sought
G.10	Crypto-assets purchase or sale modalities	Where an admission to trading is not sought, information on how and where the crypto-assets can be purchased or sold after the offer to the public	Free alphanumerical text
G.11	Crypto-assets transfer restrictions	Restrictions on the transferability of the crypto-assets that are being offered or admitted to trading	Free alphanumerical text
G.12	Supply adjustment protocols	Indication as to whether the crypto-asset has protocols for the increase or decrease of its supply in response to changes in demand	'true' – Yes 'false' – No
G.13	Supply adjustment mechanisms	Where the crypto-asset has protocols for the increase or decrease of its supply in response to changes in demand, a description of the functioning of such protocols	Free alphanumerical text
G.14	Token value protection schemes	Indication as to whether the crypto-asset has a protection scheme protecting the value of the crypto-asset	'true' – Yes 'false' – No
G.15	Token value protection schemes description	Where the field G.14 is true, a description of the protection schemes protecting the value of the crypto-assets	Free alphanumerical text
G.16	Compensation schemes	Indication as to whether the crypto-asset has a compensation scheme	'true' – Yes 'false' – No
G.17	Compensation schemes description	Where the field G.16 is true, a description of the compensation schemes	Free alphanumerical text
G.18	Applicable law	The law applicable to the crypto-assets	Drop-down list of applicable laws
G.19	Competent court	Competent court	Free alphanumerical text
<i>Part H – information on the underlying technology</i>			

H.1	Distributed ledger technology (DTL)	Field to be filled in only if a DTI is not provided in field F.13. Information on the technology used, including distributed ledger technology	Free alphanumeric text
H.2	Protocols and technical standards	Information about protocols and technical standards used	Free alphanumeric text
H.3	Technology used	Other information on the technology used	Free alphanumeric text
H.4	Consensus mechanism	Information on the consensus mechanism, where applicable	Free alphanumeric text
H.5	Incentive mechanisms and applicable fees	Information on incentive mechanisms to secure transactions and any fees applicable	Free alphanumeric text
H.6	Use of distributed ledger technology	Indication as to whether the crypto-assets are issued, transferred and stored using distributed ledger technology that is operated by the issuer, the offeror or a third-party acting on their behalf	'true' – Yes, DLT operated by the issuer or a third-party acting on the issuer's behalf 'false' – No, DLT not operated by the issuer or a third-party acting on the issuer's behalf
H.7	DLT functionality description	If the DLT is operated by the issuer or a third party acting on the issuer's behalf, a detailed description of the functioning of such distributed ledger technology	Free alphanumeric text
H.8	Audit	Indication as to whether an audit of the technology used was conducted	'true' – Yes 'false' – No
H.9	Audit outcome	If an audit was conducted, information on the outcome of the audit of the technology used	Free alphanumeric text
Part I – Information on risks			
I.1	Offer-related risks	A description of the risks associated with the offer to the public of crypto-assets or their admission to trading	Free alphanumeric text
I.2	Issuer-related risks	A description of the risks associated with the issuer, if different from the offeror or person seeking admission to	Free alphanumeric text

		trading	
I.3	Crypto-assets-related risks	A description of the risks associated with the crypto-assets	Free alphanumerical text
I.4	Project implementation-related risks	A description of the risks associated with project implementation	Free alphanumerical text
I.5	Technology-related risks	A description of the risks associated with the technology used	Free alphanumerical text
I.6	Mitigation measures	Mitigation measures of the risks associated with the technology, if any	Free alphanumerical text
Part J – Information on the sustainability indicators in relation to adverse impact on the climate and other environment-related adverse impacts			
J.1	Adverse impacts on climate and other environment-related adverse impacts	Information referred to Commission Delegated Regulation establishing technical standards adopted pursuant to Article 6(12), fourth subparagraph, Article 19(11), fourth subparagraph, Article 51(15), fourth subparagraph, and Article 66(6), fourth subparagraph of Regulation (EU) 2023/1114 of the European Parliament and of the Council	Free alphanumerical text

Table 3

Template for white papers for asset-referenced tokens

No	FIELD	CONTENT TO BE REPORTED	FORM AND STANDARDS
I.00	Table of contents	Table of contents	alphanumerical text

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I.01	Date of notification	Date of notification	YYYY-MM-DD
I.02	Statement in accordance with Article 19(4), points (a) to (e), of Regulation (EU) 2023/1114	The asset-referenced token referred to in this crypto-asset white paper may lose its value in part or in full, may not always be transferable and may not be liquid. The asset-referenced token referred to in this crypto-asset white paper is not covered by the investor compensation schemes under Directive 97/9/EC of the European Parliament and of the Council or the deposit guarantee schemes under Directive 2014/49/EU of the European Parliament and of the Council.'	Predefined alphanumerical text
I.03	Compliance statement in accordance with Article 19(5) of Regulation (EU) 2023/1114	This crypto-asset white paper complies with Title III of Regulation (EU) 2023/1114 of the European Parliament and of the Council and to the best of the knowledge of the management body, the information presented in this crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.'	Predefined alphanumerical text
SUMMARY			
I.04	Warning in accordance with Article 19(6), second subparagraph, of Regulation (EU) 2023/1114	Warning This summary should be read as an introduction to the crypto-asset white paper. The prospective holder should base any decision to purchase this asset-referenced token on the content of the crypto-asset white paper as a whole and not on the summary alone. The offer to the public of this crypto-asset does not constitute an offer or solicitation to purchase financial instruments and any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law. This crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 of the European Parliament and of the Council or any other offer document pursuant to Union or national law.'	Predefined alphanumerical text
I.05	Characteristics of the crypto-asset	A brief, clear and non-technical description of the characteristics of the asset-referenced token concerned in order to help prospective holders of that asset-	Free alphanumerical text

		referenced token make an informed decision	
I.06	Right of redemption	'The holders of asset-referenced tokens have a right of redemption at any time' Description of the conditions for such redemption	Predefined alphanumerical text Free alphanumerical text
I.07	Key information about the offer to the public and/or admission to trading	Key information about the offer to the public of the asset-referenced token or the intended admission to trading of the asset-referenced token	Free alphanumerical text
<i>Part A – Information about the issuer of the asset-referenced token</i>			
A.1	Statutory name	Statutory name	Free alphanumerical text
A.2	Trading name	Trading name	Free alphanumerical text
A.3	Legal form	Field to be filled in only if an LEI is not provided in field A.7 Legal form	ISO standard 20275 'Financial Services – Entity Legal Forms (ELF)'
A.4	Registered address	Field to be filled in only if an LEI is not provided in field A.7 Address and country of registration	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.5	Head office	Field to be filled in only if an LEI is not provided in field A.7 Address and country of the Head office, where different than registered address	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.6	Registration date	Date of the registration	ISO 8601 date format (YYYY-MM-DD)
A.7	Legal entity identifier	Legal entity identifier of the issuer	{LEI}

A.8	Other identifier required pursuant to applicable national law	National identifier based on the nationality of the issuer, if required under the applicable national law. This field only applies to entities for which a national identifier is required under applicable national law.	Free text
A.9	Parent company	Field to be filled in only if an LEI is not provided in field A.7 Where applicable, the name of the parent company	Free alphanumerical text
A.10	Members of the management body	Identity, business address and functions of each person that is member of the management body, as defined in Article 3(1), point (27), of Regulation (EU) 2023/1114, of the issuer	Free alphanumerical text presented in a tabular format
A.11	Business activity	Business or professional activity of the issuer,	Free alphanumerical text
A.12	Parent company business activity	Business or professional activity of the parent company (if applicable)	Free alphanumerical text
A.13	Newly established	Indication as to whether the issuer has been established for the past three years	'true' – Yes 'false' – No
A.14	Financial condition for the past three years	Financial condition of the issuer over the past three years. This shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the issuer and of its position, consistent with the size and complexity of the business.	Free alphanumerical text
A.15	Financial condition since registration	Where the issuer has not been established for the past three years, its financial condition since the date of its registration. This shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material	Free alphanumerical text

		changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the issuer and of its position, consistent with the size and complexity of the business.	
A.16	Governance arrangements	A detailed description of the issuer's governance arrangements	Free alphanumerical text
A.17	Exemption from authorisation	Indication of whether the issuer of asset-referenced tokens is exempted from authorisation	'NOEX' – No exemption 'EX17' – Exemption in accordance with Article 17 'EX16' – Exemption in accordance with Article 16
A.18	Authorisation as issuer of asset-referenced token	If not exempted from authorisation, details about the authorisation as an issuer of an asset-referenced token	Free alphanumerical text
A.19	Authorisation authority	Name of the competent authority that granted the authorisation as issuer of asset-referenced tokens	Closed list of competent authorities – one per Member State
A.20	Competent authority for credit institutions	For credit institutions, name of the competent authority of the home Member State	Closed list of competent authorities – one per Member State
A.21	Issuance of other crypto-assets	Indication of whether the issuer of the asset-referenced token also issues other crypto-assets	'true' – Yes 'false' – No
A.22	Activities related to other crypto-assets	Indication of whether the issuer of the asset-referenced token also has activities related to other crypto-assets	'true' – Yes 'false' – No
A.23	Connection between the issuer and the entity running the DLT	Indication of whether there is any connection between the issuer and the entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to the project participants	'true' – Yes 'false' – No

A.24	Description of the connection between the issuer and the entity running the DLT	Description of the connection between the issuer and entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to the project participants	Free alphanumerical text
AA- information on other persons offering to the public or seeking admission to trading of asset-referenced tokens other than the issuer and on other persons drawing up the crypto-asset white paper in accordance with Article 19(1), second subparagraph, of Regulation (EU) 2023/1114			
AA.1	Persons other than the issuer offering to the public or seeking admission to trading of the asset referenced token according to Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Where different from the issuer, indication of the identity of the person offering to the public or seeking admission to trading of the asset referenced token	{LEI}
AA.1.2	Persons other than the issuer offering to the public or seeking admission to trading of the asset referenced token according to Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Field to be filled in only if a legal entity identifier is not provided in field AA.1 National identifier based on the nationality of the person other than the issuer offering to the public or seeking admission to trading, if required under the applicable national law. This field only applies to entities for which a national identifier is required in accordance with applicable national law.	Another identifier required pursuant to applicable national law
AA.2	Reason for offering to the public or seeking admission to trading the asset-referenced token by persons referred to in Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Where the offeror or the person seeking admission to trading is different from the issuer, reason for offering to the public or seeking admission to trading of the asset-referenced token	Free alphanumerical text
AA.3	Other persons drawing up the crypto-asset white paper according to Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Where different from the issuer, indication of the identity of the person drawing up the crypto-asset white paper	{LEI}
AA.3.1	Other persons drawing up the crypto-asset white paper according to Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Field to be filled in only if a legal entity identifier is not provided in field AA.3 National identifier based on the nationality of the person drawing up the crypto-asset white paper, if required under the applicable national law. This field only applies to entities for which a national identifier is required in accordance with applicable national law.	Another identifier required pursuant to applicable national law

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AA.4	Reason for drawing the white paper by persons referred to in Article 19(1), second subparagraph, of Regulation (EU) 2023/1114	Where the white paper is drawn up by a person different from the issuer, reason for drawing up the white paper	Free alphanumeric text
<i>Part B - Information about the asset-referenced token</i>			
B.1	Asset-referenced token name	Field to be filled in only if a DTI is not provided in field B.15 Name of the asset-referenced token	Free alphanumeric text
B.2	Token abbreviation	Field to be filled in only if a DTI is not provided in field B.15 Abbreviation or ticker handler of the asset-referenced token	Free alphanumeric text
B.3	Details of all natural or legal persons involved in the operationalisation of the asset-referenced token	Details of advisors, development team, CASPs and all other natural or legal persons involved in the implementation of the crypto-asset project, including business addresses or domicile of the company	Free alphanumeric text presented in a tabular format
B.4	Third-party roles	A description of the role, responsibility and accountability of any third-party entities referred to in Article 34(5), first subparagraph, point (h), of Regulation (EU) 2023/1114	Free alphanumeric text presented in a tabular format
B.5	Plans for the token	Information about the plans for the asset-referenced tokens, including description of past and expected future milestones	Free alphanumeric text
B.6	Resource allocation	Where applicable, information about resources already allocated to the project	Free alphanumeric text
<i>A description of the characteristics of the asset referenced token, including the data necessary for classification of the crypto-asset white paper in the register referred to in Article 109 of Regulation (EU) 2023/1114, as specified in accordance with paragraph 8 of that Article</i>			
B.7	Type of crypto-asset white paper	The type of white paper notified	ARTW
B.8	The type of submission	Type of submission	NEWT = New MODI = Modify EROR = Error CORR = Correction

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B.9	Crypto-asset characteristics	A description of the characteristics of the asset referenced token being offered or admitted to trading	Free alphanumerical text
B.10	Website of the issuer	Website of the issuer	Free alphanumerical text
B.11	Starting date of offer to the public or admission to trading	Starting date or, if not available at the time of the notification by the competent authority, the intended starting date of offer to the public or admission to trading	YYYY-MM-DD
B.12	Publication date	Effective or intended publication date of the white paper or of the modified white paper	YYYY-MM-DD
B.13	Any other services provided by the issuer	Any other services provided by the issuer not covered by Regulation (EU) 2023/1114, with a reference to the applicable Union or national legal acts regulating those services	Free alphanumerical text
B.14	Language or languages of the crypto-asset white paper	Language or languages in which the crypto-asset white paper is drafted When multiple languages have been used, this field shall be reported as many times as necessary	Closed list of EU languages
B.15	Digital token identifier code used to uniquely identify the crypto-asset or each of the several crypto assets to which the white paper relates, where available	Code used to uniquely identify the crypto-asset or each of the several crypto assets to which the crypto-asset white paper relates, where available	ISO 24165 Digital Token Identifier
B.16	Functionally fungible group digital token identifier, where available	Code used to uniquely identify the functionally fungible group to which the digital asset belongs (i.e., common to each of the several assets to which the white paper relates, i.e. Code used to identify the white paper ISO 24165 DTI of type = 3 (i.e., functionally fungible group), where available	ISO 24165 FFG DTI
B.17	Personal data flag	Flag indicating if the submitted white paper contains personal data	'true' – Yes 'false' – No
B.18	LEI eligibility	Indication that the issuer is eligible for a Legal Entity Identifier	'true' – eligible 'false' – not eligible
B.19	Home Member State	Home Member State as defined in Article 3(1), point (33), of Regulation	Closed list of EU Member States

		(EU) 2023/1114	
B.20	Host Member States	Host Member State as defined in Article 3(1), point (34), of Regulation (EU) 2023/1114	Closed list of EU Member States
<i>Part C - Information about the offer to the public of the asset-referenced token or its admission to trading</i>			
C.1	Public offering or admission to trading	Indication as to whether the crypto-asset white paper concerns an offer to the public of the asset-referenced token or its admission to trading	'OTPC' - offer to the public 'ATTR' - admission to trading
C.2	Fundraising target	Where applicable, the amount that the offer to the public of the asset-referenced token intends to raise in funds in an official currency or in any other crypto-asset	Amount in monetary value {DECIMAL-18/3} or Numerical {INTEGER-n}
C.3	Minimum subscription goals	Where applicable, any minimum target subscription goals set for the offer to the public of the asset-referenced token in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} or Numerical {INTEGER-n}
C.4	Maximum subscription goals	Where applicable, any maximum target subscription goals set for the offer to the public of the asset-referenced token in an official currency or any other crypto-assets	Amount in monetary value {DECIMAL-18/3} or Numerical {INTEGER-n}
C.5	Oversubscription acceptance	Indication whether oversubscriptions are accepted	'true' - Yes 'false' - No 'NTAV' - Not applicable
C.6	Oversubscription allocation	Where oversubscriptions are accepted, description of how they are allocated	Free alphanumeric text
C.7	Token offering/trading quantity	Where applicable, the total number of units of the asset-referenced token to be offered or admitted to trading	Numerical {DECIMAL-18/3}

C.8	Targeted holders	Indication of the prospective holders targeted by the offer to the public of the asset-referenced token or admission of such asset-referenced token to trading	'RETL' – retail investors 'PROF' – professional investors
C.9	Holder restrictions	Indication of any restriction as regards the type of holders for the asset-referenced token	Free alphanumerical text
C.10	Reimbursement notice	'Purchasers participating in the offer to the public of this asset-referenced token will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, if they exercise the right to withdrawal provided for in Article 13 of Regulation (EU) 2023/1114 of the European Parliament and of the Council or if the offer is cancelled'	Predefined alphanumerical text
C.11	Refund timeline	Expected timeline of when such refunds will be completed	Free alphanumerical text
C.12	Explicit consequences	Description of the consequences of exceeding a maximum target subscription goal	Free alphanumerical text
C.13	Offer phases	Information about the various phases of the offer to the public of the asset-referenced token	Free alphanumerical text
C.14	Early purchase discount	Information on discounted purchase price for early purchasers of the asset-referenced token (pre-public sales) and in the case of discounted purchase price for some purchasers, an explanation as to why the purchase prices may be different and a description of the impact on the other investors	Free alphanumerical text
C.15	Time-limited offer	Indication whether the offer is time-limited	'true'- Yes 'false' – No
C.16	Subscription period beginning	For time-limited offers, the beginning of the subscription period during which the offer to the public is open	ISO 8601 date format (YYYY-MM-DD)
C.17	Subscription period end	For time-limited offers, the end of the subscription period during which the offer to the public is open	ISO 8601 date format (YYYY-MM-DD)
C.18	Token purchase/redemption payment	Methods of payment to purchase and to redeem the asset-referenced token offered	Free alphanumerical text
C.19	Token transfer	Information on the method and time schedule of transferring the purchased asset-	Free alphanumerical text

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		referenced token to the holders	
C.20	Purchasers technical requirements	Information about technical requirements that the purchaser is required to fulfil to hold the asset-referenced token	Free alphanumerical text
C.21	CASP name	Where applicable, the name of the crypto-asset service provider in charge of the placing of asset-referenced tokens	Free alphanumerical text
C.22	CASP identifier	The legal entity identifier of the crypto-asset service provider in charge of the placing of asset-referenced tokens	{LEI}
C.23	Placement form	Where applicable, the form of such placement (with or without a firm commitment basis)	'WITH' - with a firm commitment basis 'WOUT' - without a firm commitment basis 'NTAV' - Not applicable
C.24	Trading platforms name	Where applicable, the name of the trading platforms for crypto-assets where admission to trading is sought	Free alphanumerical text
C.25	Trading platforms market identifier code (MIC)	Segment MIC for the trading platform operated by the CASP, where available, otherwise operating MIC.	{MIC}
C.26	Trading platforms access	Where applicable, information about how investors can access such trading platforms	Free alphanumerical text
C.27	Involved costs	Where applicable, information about the costs involved for accessing the trading platform for investors	Free alphanumerical text
C.28	Offer expenses	Expenses related to the offer to the public of the asset-referenced token, in an official currency or any other crypto-assets. If more than one type of expense, expenses should be presented in a tabular format.	Free alphanumerical text and Numerical {DECIMAL-18/3} presented in tabular format
C.29	Conflicts of interest	Potential conflicts of interest of the persons involved in the offer to the public or admission to trading, arising in relation to the offer or admission to trading	Free alphanumerical text
C.30	Applicable law	The law applicable to the offer to the public of the asset-referenced token	Drop-down list of applicable

			laws
C.31	Competent court	Competent court	Free alphanumerical text
<i>Part D - Information on the rights and obligations attached to the asset-referenced token</i>			
D.1	Token functionalities	A description of the functionality of the asset-referenced token being offered or admitted to trading	Free alphanumerical text
D.2	Planned functionalities use	Information about when the functionalities are planned to apply	ISO 8601 date format (YYYY-MM-DD)
D.3	Purchaser rights and Obligations	A description of the rights and obligations, if any, of the purchaser	Free alphanumerical text
D.4	Rights exercise procedure	A description of the procedure and conditions for the exercise of those rights	Free alphanumerical text
D.5	Conditions for modifications of rights and obligations	A description of the conditions under which the rights and obligations may be modified	Free alphanumerical text
D.6	Future public offers	Where applicable, information on the future offers to the public of the asset-referenced token by the issuer	Free alphanumerical text
D.7	Issuer retained units	Where applicable, information on the number of units of the asset-referenced token retained by the issuer itself	Numerical {INTEGER-n}
D.8	Non-trading request	Indication as to whether an admission to trading is sought	'true' –sought 'false' – not sought
D.9	Token purchase or sale modalities	Where an admission to trading is not sought, information on how and where the asset-referenced token can be purchased or sold after the offer to the public	Free alphanumerical text
D.10	Token transfer restrictions	Any restrictions on the transferability of the asset-referenced token that is being offered or admitted to trading	Free alphanumerical text
D.11	Supply adjustment protocols	Indication as to whether the asset-referenced token has protocols for the increase or decrease of their supply in response to changes in demand	'true' – Yes 'false' – No
D.12	Supply adjustment mechanisms	Where the asset-referenced token has protocols for the increase or decrease of	Free alphanumerical text

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		their supply in response to changes in demand, a description of the functioning of such protocols	
D.13	Token value protection Schemes	Indication as to whether the asset-referenced token has a protection scheme protecting the value of the asset-referenced token	'true' – Yes 'false' – No
D.14	Token value protection schemes description	Where yes in the field D.13, a description of the protection schemes protecting the value of the asset-referenced token	Free alphanumerical text
D.15	Compensation schemes	Indication as to whether the asset-referenced token has a compensation scheme	'true' – Yes 'false' – No
D.16	Compensation schemes description	Where yes in the field D.15, a description of compensation schemes	Free alphanumerical text
D.17	Nature and enforceability of rights	Information on the nature and enforceability of rights, including permanent rights of redemption and any claims that holders and any legal or natural person as referred to in Article 39(2) of Regulation (EU) 2023/1114, may have against the issuer, including information on how such rights will be treated in the case of insolvency procedures and whether different rights are allocated to different holders and the non-discriminatory reasons for such different treatment	Free alphanumerical text
D.18	Referenced assets description	Detailed description of the claim that the asset-referenced token represents for holders, including a description of each referenced asset including the ISIN code where available and specified proportions of each of those assets	Free alphanumerical text presented in a tabular format {ISIN} where applicable
D.19	Referenced assets proportions	Description of the amount of the claim and the reserve of asset	Free alphanumerical text
D.20	Value-claim-reserve interrelation	Relation between the value of the referenced assets and the amount of the claim and the reserve of assets	Free alphanumerical text
D.21	Transparent claim valuation	Description how a fair and transparent valuation of components of the claim is undertaken, which identifies, where relevant, independent parties	Free alphanumerical text
D.22	Other details about the claim the asset referenced token represents over referenced assets	Additional details describing the claim that the asset-referenced token represents for the holders	Free alphanumerical text
D.23	Liquidity arrangements	Where applicable, information on the arrangements put in place by the issuer to	Free alphanumerical text

		ensure the liquidity of the asset-referenced token	
D.24	Liquidity providers	Where applicable, the name of the entities in charge of ensuring liquidity	Free alphanumerical text
D.25	Complaint submission contact	Contact details for submitting complaints	Free alphanumerical text
D.26	Complaints handling procedures	Description of the complaints-handling procedures	Free alphanumerical text
D.27	Dispute resolution mechanism	Description of any dispute resolution mechanism or redress procedure established by the issuer of the asset-referenced token	Free alphanumerical text
D.28	Holder rights in default or insolvency	A description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency	Free alphanumerical text
D.29	Rights in recovery plan implementation	A description of the rights in the context of the implementation of the recovery plan	Free alphanumerical text
D.30	Rights in redemption plan implementation	A description of the rights in the context of the implementation of the redemption plan	Free alphanumerical text
D.31	Redemption form	Detailed information on how the asset-referenced token is redeemed	Free alphanumerical text
D.32	Redemption form options	Indication whether the holder will be able to choose the form of redemption	'true' – Yes 'false' – No
D.33	Transference form options	Indication as to whether the holder will be able to choose the form of transference	'true' – Yes 'false' – No
D.34	Form of transference	Form of transference	Free alphanumerical text
D.35	Redemption currency	The official currency of redemption	{CURRENCYCODE_3}
D.36	Applicable law	The law applicable to the asset-referenced token	Drop-down list of applicable laws
D.37	Competent court	Competent court	Free alphanumerical text
<i>Part E - Information on the underlying technology</i>			
E.1	Distributed ledger technology	Fill in the field only if a DTI is not provided in field B.15	Free alphanumerical text

		Information on the distributed ledger technology	
E.2	Protocols and technical standards	Information on the protocols and technical standards used, allowing for the holding, storing and transfer of the asset-referenced token	Free alphanumerical text
E.3	Technology used	Other information on the technology used allowing for the holding, storing and transfer of asset-referenced tokens, if relevant	Free alphanumerical text
E.4	Consensus mechanism	The consensus mechanism, where applicable	Free alphanumerical text
E.5	Incentive mechanisms and applicable fees	Incentive mechanisms to secure transactions and any fees applicable	Free alphanumerical text
E.6	Use of distributed ledger technology	Indication as to whether the asset-referenced tokens are issued, transferred and stored using distributed ledger technology that is operated by the issuer or a third-party acting on the issuer's behalf	'true' – Yes, DLT operated by the issuer or a third-party acting on the issuer's behalf 'false' – No, DLT not operated by the issuer or a third-party acting on the issuer's behalf
E.7	DLT functionality description	If the DLT is operated by the issuer or a third party acting on the issuer's behalf, a detailed description of the functioning of such distributed ledger technology	Free alphanumerical text
E.8	Audit	Indication as to whether an audit of the technology used was conducted	'true' – Yes 'false' – No
E.9	Audit outcome	If an audit was conducted, information on the outcome of the audit of the technology used	Free alphanumerical text
<i>Part F - Information on the risks</i>			
F.1	Risks related to Asset Reserve	The risks related to the reserve of assets, when the issuer is not able to fulfil its obligations	Free alphanumerical text
F.2	Issuer-related risks	A description of the risks associated with the issuer of the asset-referenced token	Free alphanumerical text
F.3	Offer-related risks	A description of the risks associated with the offer to the public of the asset-referenced token or its admission to trading	Free alphanumerical text

F.4	Token-related risks	Description of the risks associated with the asset-referenced token, in particular with regard to the asset referenced	Free alphanumerical text
F.5	Risks related to operationalisation of the asset-referenced Token project	A description of the risks associated with the operationalisation of the asset-referenced token project	Free alphanumerical text
F.6	Technology-related risks	Description of the risks associated with the technology used	Free alphanumerical text
F.7	Mitigation measures	Mitigation measures of the risks associated with the technology used, if any	Free alphanumerical text
<i>Part G - Information on the reserve of assets</i>			
G.1	Value alignment mechanism	Detailed description of the mechanism aimed at aligning the value of the reserve of assets with the claim associated with the asset-referenced token, including legal and technical aspects	Free alphanumerical text
G.2	Asset reserve description	Detailed description of the reserve of assets and their composition	Free alphanumerical text
G.3	Token issuance and redemption mechanisms	A description of the mechanisms through which asset-referenced tokens are issued and redeemed	Free alphanumerical text
G.4	Investment of reserve of assets	Information on whether a part of the reserve assets are invested	'true' – Yes 'false' – No
G.5	Reserve asset investment policy	If a part of the reserve assets are invested, a description of the investment policy for the reserve assets	Free alphanumerical text
G.6	Reserve asset custody arrangements	Description of the custody arrangements for the reserve assets, including their segregation	Free alphanumerical text
G.7	Custodian service providers	Name of crypto-asset service providers providing custody and administration of crypto-assets on behalf of clients, credit institutions, or investment firms appointed as custodians of the reserve assets	Free alphanumerical text
G.8	Custodian service providers	LEI of the CASP providing custody and administration of crypto-assets on behalf of clients, credit institutions, or investment firms appointed as custodians of the reserve assets	{LEI}

<i>Part H – Information on the sustainability indicators in relation to adverse impact on the climate and other environment-related adverse impacts</i>			
H.1	Adverse impacts on climate and other environment-related adverse impacts	Include information referred to Commission Delegated Regulation establishing technical standards adopted pursuant to Article 6(12), fourth subparagraph, Article 19(11), fourth subparagraph, Article 51(15), fourth subparagraph, and Article 66(6), fourth subparagraph of Regulation (EU) 2023/1114 of the European Parliament and of the Council	Free alphanumerical text

Table 4

Template for white papers for e-money tokens

No	FIELD	CONTENT TO BE REPORTED	FORM AND STANDARDS TO BE USED FOR REPORTING
I.00	Table of contents	Table of contents	Alphanumerical text
I.01	Date of notification	Date of notification	YYYY-MM-DD
I.02	Statement in accordance with Article 51(3) of Regulation (EU) 2023/1114	'This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The issuer of the crypto-asset is solely responsible for the content of this crypto-asset white paper.'	Predefined alphanumerical text
I.03	Compliance statement in accordance with Article 51(5) of Regulation (EU) 2023/1114	'This crypto-asset white paper complies with Title IV of Regulation (EU) 2023/1114 of the European Parliament and of the Council and to the best of the knowledge of the management body, the information presented in this crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.'	Predefined alphanumerical text
I.04	Warning in accordance with Article 51(4), points (a) and (b), of Regulation (EU) 2023/1114	'This e-money token is not covered by the investor compensation schemes under Directive 97/9/EC of the European Parliament and of the Council or the deposit guarantee schemes under Directive 2014/49/EU of the European Parliament and of the Council.'	Predefined alphanumerical text

SUMMARY			
I.05	Warning in accordance with Article 51(6), second subparagraph of Regulation (EU) 2023/1114	'Warning This summary should be read as an introduction to the crypto-asset white paper. The prospective holder should base any decision to purchase this e-money token on the content of the crypto-asset white paper as a whole and not on the summary alone. The offer to the public of this crypto-asset does not constitute an offer or solicitation to purchase financial instruments and that any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law. This crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 of the European Parliament and of the Council or any other offer document pursuant to Union or national law.'	Predefined alphanumeric text
I.06	Characteristics of the crypto-asset	A brief, clear and non-technical description of the characteristics of the crypto-assets concerned in order to help prospective holders of the crypto-asset make an informed decision	Free alphanumeric text
I.07	Right of redemption	'The holders of this e-money token have a right of redemption at any time and at par value.' Description of the conditions for such redemption.	Predefined alphanumeric text Free alphanumeric text
I.08	Key information about the offer and/ or admission to trading	Key information about the offer to the public of the e-money token or the intended admission to trading of such e-money token.	Free alphanumeric text
<i>Part A- Information about the issuer of the e-money token</i>			
A.1	Statutory name	Statutory Name	Free alphanumeric text
A.2	Trading name	Trading Name	Free alphanumeric text
A.3	Legal form	Fill in the field only if LEI is not provided in field A.7. Legal form	ISO standard 20275 'Financial Services – Entity Legal Forms

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			(ELF)'
A.4	Registered address	Fill in the field only if LEI is not provided in field A.7. Address and country of registration	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.5	Head office	Fill in the field only if LEI is not provided in field A.7. Address and country of the Head office, where different than registered address	ISO standard 3166-1 alpha 2 country codes and codes for their subdivisions and Free alphanumerical text
A.6	Registration date	Date of the registration	ISO 8601 date format (YYYY-MM-DD)
A.7	Legal entity identifier	Legal entity identifier of the issuer, where available	{LEI}
A.8	Another identifier required pursuant to applicable law	National identifier based on the nationality of the issuer, if required under the applicable national law. This field only applies to entities for which a national identifier is required under applicable national law.	Free text
A.9	Contact telephone number	Contact telephone number of the issuer	Free alphanumerical text
A.10	E-mail address	E-mail address of the issuer	Free alphanumerical text
A.11	Response time (days)	Period of days within which an investor via that telephone number or email address will receive an answer	{DURATION}
A.12	Parent company	Fill in the field only if an LEI is not provided in field A.7. Where applicable, the name of the parent company	Free alphanumerical text
A.13	Members of the management body	Identity, business address and functions of persons (names or other identifiers) within the management body, as defined in Article 3(1), point (27), of Regulation (EU) 2023/1114, of	Free alphanumerical text

		the issuer	presented in a tabular format
A.14	Business activity	Business or professional activity of the issuer, including principal activities and principal markets	Free alphanumerical text
A.15	Parent company business activity	Business or professional activity of the parent company (if applicable), including principal activities and principal markets	Free alphanumerical text
A.16	Conflicts of interest disclosure	Potential conflicts of interest	Free alphanumerical text
A.17	Issuance of other crypto-assets	Indication of whether the issuer of the e-money token also issues other crypto-assets	'true' – Yes 'false' – No
A.18	Activities related to other crypto-assets	Indication of whether the issuer of the e-money token also has activities related to other crypto-assets.	'true' – Yes 'false' – No
A.19	Connection between the issuer and the entity running the DLT	Indication of whether there is any connection between the issuer and the entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to the project participants	'true' – Yes 'false' – No
A.20	Description of the connection between the issuer and the entity running the DLT	Description of the connection between the issuer and entity running the distributed ledger technology used to issue the crypto-asset, including if the protocols are run or controlled by a person closely connected to the project participants	Free alphanumerical text
A.21	Newly established	Indication as to whether the issuer has been established for the past three years	'true' – Yes 'false' – No
A.22	Financial condition for the past three years	Financial condition of the issuer over the past three years. This shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the issuer and of its position, consistent with the size and complexity of the business. The analysis shall include both financial and, where appropriate, non-financial Key	Free alphanumerical text

		Performance Indicators relevant to the particular business. The analysis shall, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements (when available), information regarding unusual or infrequent events or new developments, materially affecting the income from operations and indicate the extent to which income was so affected, information concerning capital resources (both short term and long term) and an explanation of the sources and amounts of and a narrative description of the cash flows.	
A.23	Financial condition since registration	Where the issuer has not been established for the past three years, its financial condition since the date of its registration. This shall be assessed based on a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes. The review shall be a balanced and comprehensive analysis of the development and performance of the business of the issuer and of its position, consistent with the size and complexity of the business. The analysis shall include both financial and, where appropriate, non-financial Key Performance Indicators relevant to the particular business. The analysis shall, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements (when available), information regarding unusual or infrequent events or new developments, materially affecting the income from operations and indicate the extent to which income was so affected, information concerning capital resources (both short term and long term) and an explanation of the sources and amounts of and a narrative description of the cash flows.	Free alphanumerical text
A.24	Exemption from authorisation	Indication of whether the issuer of e-money token is exempted from authorisation in accordance with Article 48(4) and (5) of Regulation (EU) 2023/1114	'true' – Yes 'false' – No
A.25	E-money token authorisation	If not exempted from authorisation in accordance with Article 48(4) and (5) of Regulation (EU) 2023/1114, details about the authorisation as an issuer of an e-money token	Free alphanumerical text
A.26	Authorisation authority	Name of the competent authority that granted the authorisation	Closed list of competent

			authorities – one per Member State
A.27	Persons other than the issuer offering to the public or seeking admission to trading of the e-money token in accordance with Article 51(1), second subparagraph, of Regulation (EU) 2023/1114	Where different from the issuer, indication of the identity of the person offering to the public or seeking admission to trading of the e-money token	{LEI}
A.28	Persons other than the issuer offering to the public or seeking admission to trading of the e-money token in accordance with Article 51(1), second subparagraph, of Regulation (EU) 2023/1114	Field to be filled in only if a legal entity identifier is not provided in field A.27 National identifier based on the nationality of the person other than the issuer offering to the public or seeking admission to trading of the e-money token, if required under the applicable national law. This field only applies to entities for which a national identifier is required in accordance with applicable national law.	Another identifier required pursuant to applicable national law
A.29	Reason for offering to the public or seeking admission to trading of the e-money token by persons referred to in Article 51(1), second subparagraph, of Regulation (EU) 2023/1114	Where the offeror or the person seeking admission to trading is different from the issuer, reason for offering to the public or seeking admission to trading of the e-money token	Free alphanumerical text
<i>Part B - Information about the e-money token</i>			
B.1	Name	Field to be filled in only if a DTI is not provided in field B.12 e-money token name	Free alphanumerical text
B.2	Abbreviation	Field to be filled in only if a DTI is not provided in field B.12 e-token abbreviation	Free alphanumerical text
B.3	Details of all natural or legal persons involved in design and development	Details of advisors, development team members, CASPs and all natural and legal persons involved in the design and development of the crypto-asset project, including business addresses or domicile of the company, presented in a tabular format	Free alphanumerical text presented in a tabular format
<i>B. A description of the characteristics of the e-money token, including the data necessary for classification of the crypto-asset white paper in the register referred to in</i>			

<i>Article 109, as specified in accordance with paragraph 8 of that Article</i>			
B.4	Type of white paper	The type of white paper notified.	EMTW
B.5	The type of submission	Type of submission	NEWT = New MODI = Modify EROR = Error CORR = Correction
B.6	Crypto-asset characteristics	A description of the characteristics of the e-money token	Free alphanumerical text
B.7	Website of the issuer	Website of the issuer	Free alphanumerical text
B.8	Starting date of offer to the public or admission to trading	Starting date or, if not available at the time of the notification by the competent authority, the intended starting date of offer to the public or admission to trading.	YYYY-MM-DD
B.9	Publication date	Effective or intended publication date of the white paper or of the modified white paper	YYYY-MM-DD
B.10	Any other services provided by the issuer	Any other services provided by the issuer not covered by Regulation (EU) 2023/1114, with a reference to the applicable Union or national legal acts regulating those services	Free alphanumerical text
B.11	Language or languages of the white paper	Language or languages in which the crypto-asset white paper is drafted When multiple languages have been used, this field shall be reported as many times as necessary	Closed list of EU languages
B.12	Digital token identifier code used to uniquely identify the crypto-asset or each of the several crypto assets to which the white paper relates, where available	Code used to uniquely identify the crypto-asset or each of the several crypto assets to which the white paper relates, where available	ISO 24165 Digital Token Identifier
B.13	Functionally fungible group digital token identifier, where available	Code used to uniquely identify the functionally fungible group to which the digital asset belongs (i.e., common to each of the several assets to which the white paper relates, i.e. Code used to identify the white paper ISO 24165 DTI of type = 3 (i.e., functionally fungible group), where available	ISO 24165 FFG DTI
B.14	Personal data flag	Flag indicating if the submitted white paper contains personal data	'true' – Yes

			'false' – No
B.15	LEI eligibility	Indication that the issuer is eligible for a Legal Entity Identifier	'true' – eligible 'false' – not eligible
B.16	Home Member State	Home Member State as defined in Article 3(1), point 33, of Regulation (EU) 2023/1114	Closed list of EU Member States
B.17	Host Member States	Host Member State as defined in Article 3(1), point (34), of Regulation (EU) 2023/1114	Closed list of EU Member States
<i>Part C - Information about the offer to the public of the e-money token or its admission to trading</i>			
C.1	Public offering or trading	Indication as to whether the crypto-asset white paper concerns an offer to the public of the e-money token or an admission to its trading	'OTPC' – offer to the public 'ATTR' – admission to trading
C.2	Number of units	Where applicable, the total number of units of the e-money token to be offered to the public or admitted to trading	Numerical {DECIMAL-18/3}
C.3	Trading platforms name	Where applicable, the name of the trading platforms for crypto-assets where admission to trading is sought	Free alphanumerical text
C.4	Trading platforms market identifier code (MIC)	Segment MIC for the trading platform operated by the CASP, where available, otherwise operating MIC	{MIC}
C.5	Applicable law	The law applicable to the offer to the public of the e-money token	Drop-down list of applicable laws
C.6	Competent court	Competent court	Free alphanumerical text
<i>Part D - Information on the rights and obligations attached to e-money tokens</i>			
D.1	Holder's rights and obligations	A detailed description of the rights and obligations, if any, that the holder of the e-money token has, including the right of redemption at par value as well as the procedure and conditions for the exercise of those rights	Free alphanumerical text

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D.2	Conditions of modifications of rights and obligations	Description of the conditions under which the rights and obligations may be modified	Free alphanumerical text
D.3	Description of the rights of the holders	Description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency	Free alphanumerical text
D.4	Rights in implementation of recovery plan	Description of rights in the context of the implementation of the recovery plan	Free alphanumerical text
D.5	Rights in implementation of redemption plan	Description of the rights in the context of the implementation of the redemption plan	Free alphanumerical text
D.6	Complaint submission contact	Contact details for submitting complaints	Free alphanumerical text
D.7	Complaints handling procedures	Description of the complaints-handling procedures	Free alphanumerical text
D.8	Dispute resolution mechanism	Description of any dispute resolution mechanism or redress procedure established by the issuer of the e-money token	Free alphanumerical text
D.9	Token value protection schemes	Indication as to whether the crypto-asset has a protection scheme protecting the value of the crypto-asset	'true' – Yes 'false' – No
D.10	Token value protection schemes description	Where field D.9 is true, a description of protection schemes protecting the value of the crypto-asset and of compensation schemes	Free alphanumerical text
D.11	Compensation schemes	Indication as to whether the crypto-asset has a compensation scheme	'true' – Yes 'false' – No
D.12	Compensation schemes Description	Where field D.11 is true, a description of compensation schemes	Free alphanumerical text
D.13	Applicable law	The law applicable to the e-money token	Drop-down list of applicable laws
D.14	Competent court	Competent court	Free alphanumerical text
<i>Part E - Information on the underlying technology</i>			
E.1	Distributed ledger technology	Field to be filled in only if a DTI is not provided in field B.13	Free alphanumerical text

		Information on the distributed ledger technology	
E.2	Protocols and technical standards	Information on the protocols and technical standards used, allowing for the holding, storing and transfer of e-money token	Free alphanumerical text
E.3	Technology used	Other information on the technology used allowing for the holding, storing and transfer of e-money tokens, if relevant	Free alphanumerical text
E.4	Purchaser's technical requirements	Information about the technical requirements that the purchaser has to fulfil to gain control over the e-money token	Free alphanumerical text
E.5	Consensus mechanism	The consensus mechanism, where applicable	Free alphanumerical text
E.6	Incentive mechanisms and applicable fees	Incentive mechanisms to secure transactions and any fees applicable	Free alphanumerical text
E.7	Use of distributed ledger technology	Indication as to whether the e-money tokens are issued, transferred and stored using distributed ledger technology that is operated by the issuer or a third-party acting on the issuer's behalf	'true' – Yes, DLT operated by the issuer or a third-party acting on the issuer's behalf 'false' – No, DLT not operated by the issuer or a third-party acting on the issuer's behalf
E.8	DLT functionality description	If the DLT is operated by the issuer or a third party acting on the issuer's behalf, a detailed description of the functioning of such distributed ledger technology	Free alphanumerical text
E.9	Audit	Indication as to whether an audit of the technology used was conducted	'true' – Yes 'false' – No
E.10	Audit outcome	If an audit was conducted, information on the outcome of the audit of the technology used	Free alphanumerical text
<i>Part F - Information on the risks</i>			
F.1	Issuer-related risks	A description of the risks associated with the issuer of the e-money token	Free alphanumerical text
F.2	Token-related risks	A description of the risks associated with the e-money token	Free alphanumerical text

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F.3	Technology-related risks	Description of the risks associated with the technology used	Free alphanumerical text
F.4	Mitigation measures	Mitigation measures of the risks associated with the technology used, if any	Free alphanumerical text
<i>Part G – Information on the sustainability indicators in relation to adverse impact on the climate and other environment-related adverse impacts</i>			
G.1	Adverse impacts on climate and other environment-related adverse impacts	Include the information referred to Commission Delegated Regulation establishing technical standards adopted pursuant to Article 6(12), fourth subparagraph, Article 19(11), fourth subparagraph, Article 51(15), fourth subparagraph, and Article 66(6), fourth subparagraph of Regulation (EU) 2023/1114 of the European Parliament and of the Council	Free alphanumerical text

APPENDIX 32: COMMISSION IMPLEMENTING REGULATION (EU) 2025/304

of 31 October 2024

laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the notification by certain financial entities of their intention to provide crypto-asset services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁴⁹, and in particular Article 60(14), third subparagraph, thereof,

Whereas:

- (1) Regulation (EU) 2023/1114 requires that common standard forms, templates and procedures are set out to ensure a uniform mechanism by which national competent authorities effectively exercise their powers in respect of the notifications they receive from already regulated entities of their intention to become crypto-asset service providers.
- (2) To facilitate the communication between a notifying entity and the relevant competent authority, competent authorities should designate a contact point for the notification process and should publish the contact information on their website.
- (3) In order to facilitate access to the information submitted and facilitate its control and future accessibility and analysis, the notification should be submitted in a digital format (web form) that automatically controls and performs preliminary checks on the information submitted and then stores it when complete.
- (4) The information submitted by the notifying entity should be accurate, complete and up-to-date. Pursuant to Article 60(9) of Regulation (EU) 2023/1114, where the information referred to in Commission Delegated Regulation (EU) 2025/303²⁵⁰ has previously been submitted to the competent authority, the notifying entity is to expressly state that any information that was submitted previously is still up-to-date. Given that some information may only refer to the future, any future date included in the information should be specifically identified in the application.
- (5) To ensure a prompt and timely handling of notifications from financial entities, competent authorities should confirm the receipt of the notification by sending electronically, on paper, or in both forms, an acknowledgement of receipt to the notifying entity. That acknowledgement of receipt should include the contact details of the persons or function in charge of handling the notification.

²⁴⁹ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

²⁵⁰ Commission Delegated Regulation (EU) 2025/303 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included by certain financial entities in the notification of their intention to provide crypto-asset services (OJ L, 2025/303, 20.2.2025, ELI: http://data.europa.eu/eli/reg_del/2025/303/oj).

- (6) To allow the competent authority to assess whether all required information has been provided in the notification in accordance with Article 60(8), first subparagraph, of Regulation (EU) 2023/1114, the notifying entity should communicate any changes to the information provided without undue delay.
- (7) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Securities and Markets Authority ('ESMA') and developed in close cooperation with the European Banking Authority.
- (8) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁵¹,

HAS ADOPTED THIS REGULATION:

Article 1

Designation of a contact point

Competent authorities shall designate a contact point for receiving the notifications submitted by financial entities in accordance with Article 60 of Regulation (EU) 2023/1114. Competent authorities shall keep the contact details of the designated contact point up-to-date and shall make those contact details public on their websites.

Article 2

Submission of the notification

- 1. The notifying entity shall submit to the competent authority its notification by filling in the form set out in the Annex of this Regulation.
- 2. The notifying entity shall submit the notification in a manner which enables storage of information in a way accessible for future reference and which allows the unchanged reproduction of the information stored.

Article 3

Receipt of the notification and acknowledgement of receipt

Within five working days of receipt of the notification, the competent authority shall send electronically, on paper, or in both forms, an acknowledgement of receipt to the notifying entity. The acknowledgement of receipt shall include the contact details of the department, function or staff member of the competent authority handling the notification.

²⁵¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

Article 4

Notification of changes

The notifying entity shall notify the competent authority of any changes to the information provided in the notification without undue delay. The notifying entity shall provide the updated information by using the form set out in the Annex.

Article 5

Entry into force

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

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

Done at Brussels, 31 October 2024.

ANNEX

Form for the notification of information to be provided by certain financial entities

In accordance with Articles 2 and 4 of Commission Implementing Regulation (EU) 2025/304 of 31 October 2024, laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the notification of certain financial entities of their intention to provide crypto-asset services, kindly find attached our notification of our intention to provide crypto-asset services²⁵².

<i>Reference number (to be completed by the competent authority):</i> Date: FROM Name of the notifying entity: National reference number: Address of the notifying entity: Contact details of designated contact person: Name: Telephone: Email: TO Member State (if applicable): Competent authority: Address: Contact details of the designated contact point: Name: Telephone: Email: [We,] [notifying entity,] declare that the submitted information is accurate, complete and up-to-date. If some information relates only to a future date, it is explicitly identified in the notification and we undertake to notify the authority in writing without delay if any such information should turn out to be inaccurate, incomplete or misleading. Further, we undertake to inform the competent authority of any change concerning the information

²⁵² OJ L, 2025/304, 20.2.2025, ELI: http://data.europa.eu/eli/reg_impl/2025/304/oj.

provided in this form.

— Person in charge of preparing the notification:

Name:

Status/position:

Telephone:

Email:

REQUIRED INFORMATION

Programme of operations

...

Please insert the information referred to in Article 1 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Business continuity

...

Please insert the information referred to in Article 2 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Detection and prevention of money laundering and terrorist financing

...

Please insert the information referred to in Article 3 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

ICT systems and related security arrangements

...

Please insert the information referred to in Article 4 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Segregation of clients' crypto-assets and funds

...

Please insert the information referred to in Article 5 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Custody and administration policy

...

Please insert the information referred to in Article 6 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Operating rules of the trading platform and market abuse detection

...

Please insert the information referred to in Article 7 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Exchange of crypto-assets for funds or other crypto-assets

...

Please insert the information referred to in Article 8 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Execution policy

...

Please insert the information referred to in Article 9 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Provision of advice or portfolio management on crypto-assets

...

Please insert the information referred to in Article 10 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

Transfer services

...

Please insert the information referred to in Article 11 of Delegated Regulation (EU) 2025/303, by setting out that information here or making reference to the relevant sections of the notification.

[signature of legal representative]

APPENDIX 33: COMMISSION IMPLEMENTING REGULATION (EU) 2025/306

of 31 October 2024

laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to the Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁵³, and in particular Article 62(6), third subparagraph thereof,

Whereas:

- (1) To facilitate communication between legal persons or other undertakings seeking authorisation as a crypto-asset service providers in accordance with Article 62 of Regulation (EU) 2023/1114 ('applicants') and competent authorities, competent authorities should designate a contact point specifically for receiving the applications for authorisation as a crypto-asset service provider and should publish the information on the contact point on their website.
- (2) The information submitted by the applicant should be true, accurate, complete and up-to-date from the moment of submission of the application until the moment of granting the authorisation. Given that some information may only refer to the future, any future date included in the information should be specifically identified in the application.
- (3) To ensure a prompt and timely handling of applications for the authorisation of crypto-asset service providers, competent authorities should confirm the receipt of the application by sending electronically, on paper, or in both forms, an acknowledgement of receipt to the applicant. That acknowledgement of receipt should include the contact details of the persons or function in charge of handling the application for authorisation.
- (4) To allow competent authorities to base their assessment of the application for authorisation on accurate information, applicants should communicate to competent authorities any changes to the information provided in the application for authorisation, without undue delay. In that case, the time limits for the assessment of the application laid down in Article 63(9) of Regulation (EU) 2023/1114 should start from the date on which the updated information is received by the competent authority.
- (5) Competent authorities should be able to request additional information from the applicant during the assessment in accordance with the criteria and timelines laid down in Article 63(12) of Regulation (EU) 2023/1114.

²⁵³ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (6) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Securities and Markets Authority, in close cooperation with the European Banking Authority.
- (7) The European Securities and Markets Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁵⁴,

HAS ADOPTED THIS REGULATION:

Article 1

Designation of a contact point

Competent authorities shall designate a contact point for receiving the applications for authorisation as a crypto-asset service provider in accordance with Article 62 of Regulation (EU) 2023/1114.

Competent authorities shall keep the contact details of the designated contact point up-to-date and shall make those contact details public on their websites.

Article 2

Submission of the application for authorisation

1. A legal person or other undertaking seeking authorisation as a crypto-asset service provider in accordance with Article 62 of Regulation (EU) 2023/1114 ('applicant') shall submit to the competent authority its application for authorisation by filling in the form set out in the Annex of this Regulation.
2. The legal person or other undertaking shall submit the application in a manner which enables storage of information so that it is accessible for future reference and that allows the reproduction of the information stored.

Article 3

Receipt of the application for authorisation and acknowledgement of receipt

Competent authorities shall send electronically, on paper, or in both forms, an acknowledgement of receipt to the applicant. That acknowledgement of receipt shall include the contact details of the department, function or staff member of the competent authority handling the application.

Article 4

Notification of changes

²⁵⁴ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84, ELI: <http://data.europa.eu/eli/reg/2010/1095/oj>).

1. The applicant shall notify the competent authority of any changes to the information provided in the application for authorisation without undue delay. The applicant shall provide the updated information by using the form set out in the Annex.
2. Where the applicant provides updated information in accordance with paragraph 1, the time limit laid down in Article 63(9) of Regulation (EU) 2023/1114 shall start from the date of receipt of that updated information by the competent authority.
3. Crypto-asset service providers shall notify the competent authority of any changes to the information based on which the authorisation was granted.

Article 5

Communication of the decision

Competent authorities shall notify the applicant of their decision granting or refusing the authorisation, as referred to in Article 63(9) of Regulation (EU) 2023/1114, in paper form, by electronic means or both.

Article 6

Entry into force

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

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

Done at Brussels, 31 October 2024.

ANNEX

APPLICATION FORM FOR AUTHORISATION AS A CRYPTO-ASSET SERVICE PROVIDER

In accordance with Article 2 and 4 of Commission Implementing Regulation (EU) 2025/306 of 31 October 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 with regard to standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider²⁵⁵.

Reference number <i>(to be completed by the competent authority)</i>: Date: FROM Name of the applicant: Address of the applicant / applicant's registered office: <i>Contact details of the designated contact person</i> Name: Telephone: Email: TO Member State (if applicable): Competent authority: Address: <i>Contact details of the designated contact point</i> Name: Telephone: Email: We, <i>[insert applicant's name]</i> declare that the submitted information is true, accurate, complete, up to date, and not misleading. If some information relates only to a future date, it is explicitly identified in the application and we undertake to notify the authority in writing without delay if any such information should turn out to be inaccurate, incomplete or misleading. Further, we undertake to inform the competent authority of any change concerning the information provided in this form. <i>Person in charge of preparing the application</i>

²⁵⁵ OJ L, 2025/306, 31.3.2025, ELI: http://data.europa.eu/eli/reg_impl/2025/306/oj.

Name:

Status/position:

Telephone:

Email:

— Nature of the communication (tick the relevant box)

— ☐ Authorisation

— ☐ Notification of changes pursuant to Article 4(1) of Implementing Regulation (EU) 2025/306 (in case of notification of changes, only the relevant parts of the form which are amended should be filled)

REQUIRED INFORMATION

General information according to Article 1 of Commission Delegated Regulation (EU) 2025/305²⁵⁶

...

Programme of operations according to Article 2 of Delegated Regulation (EU) 2025/305

...

Prudential requirements

...

Please insert the information referred to in Article 3 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Information about governance arrangements and internal control mechanisms

...

Please insert the information referred to in Article 4 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Business continuity

...

Please insert the information referred to in Article 5 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Detection and prevention of money laundering and terrorist financing

²⁵⁶ Commission Delegated Regulation (EU) 2025/305 of 31 October 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in an application for authorisation as a crypto-asset service provider (OJ L, 2025/305, 31.3.2025, ELI: http://data.europa.eu/eli/reg_del/2025/305/oj).

...

Please insert the information referred to in Article 6 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Identity and proof of good repute, knowledge, skills, and experience and of sufficient time commitment of the members of the management body

...

Please insert the information referred to in Article 7 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Information relating to shareholders or members with qualifying holdings

...

Please insert the information referred to in Article 8 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

ICT systems and related security arrangements

...

Please insert the information referred to in Article 9 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Segregation of clients' crypto-assets and funds

...

Please insert the information referred to in Article 10 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Complaints-handling

...

Please insert the information referred to in Article 11 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Custody and administration policy

...

Please insert the information referred to in Article 12 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Operating rules of the trading platform and market abuse detection

...

Please insert the information referred to in Article 13 of Delegated Regulation (EU) 2025/305, by setting out that

information here or making reference to the relevant sections of the application.

Exchange of crypto-assets for funds or other crypto-assets

...

Please insert the information referred to in Article 14 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Execution policy

...

Please insert the information referred to in Article 15 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Provision of advice or portfolio management on crypto-assets

...

Please insert the information referred to in Article 16 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

Transfer services

...

Please insert the information referred to in Article 17 of Delegated Regulation (EU) 2025/305, by setting out that information here or making reference to the relevant sections of the application.

[signature of legal representative]

APPENDIX 34: DRAFT RTS AND ITS ON INFORMATION FOR APPLICATIONS FOR AUTHORISATION TO OFFER TO THE PUBLIC OR TO SEEK ADMISSION TO TRADING OF AN ASSET-REFERENCED TOKEN

Draft regulatory technical standards on information for application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens under Article 18(6) of Regulation (EU) 2023/1114

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

of XXX

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be contained in an application for authorisation to offer to the public or to admit to trading asset-referenced tokens

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁵⁷, and in particular

Article 18(6), third subparagraph, thereof,

Whereas:

- (1) The information to be provided in an application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token should be sufficiently detailed and comprehensive to enable the competent authority to assess whether an applicant issuer meets the requirements laid down in Title III of Regulation (EU) 2023/1114 and does not fall in any of the grounds justifying the refusal of authorisation.
- (2) The information submitted by the applicant issuer for authorisation as issuer of an asset referenced token should be true, accurate, complete and up-to-date from the moment of submission of the application until authorisation. For that purpose, competent authorities should be informed of any changes to the information provided in the initial application, and competent authorities should be able to enquire whether any changes or updates have occurred before the public offer or admission to trading of the asset-referenced token.
- (3) The application should contain information about the applicant issuer, including on its identity, on the suitability of the members of the management body and the sufficiently good reputation of the shareholders or members, whether direct or indirect, with qualifying holdings. That information would include personal

²⁵⁷ OJ L 150, 9.6.2023, p. 40.

data. In compliance with the principle of data minimisation, enshrined in Article 5(1) letter (c) of Regulation (EU) 2016/679²⁵⁸, such personal data should be necessary and sufficient to enable the competent authority to carry out a comprehensive assessment of the applicant issuer, of its ability to comply with prudential requirements envisaged by Regulation (EU) 2023/1114, and that it does not fall into any ground of refusal of the authorisation set out in letters (a) to (e) of Article 21(2) of that Regulation. When assessing the application and processing the personal data included therein, competent authorities should comply with the relevant provisions of Regulation (EU) 2016/679, the General Data Protection Regulation, and the European Central Bank (ECB), the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) should comply with Regulation (EU) 2018/1725. Furthermore, in pursuance of data protection principles, such personal data should be kept by the competent authority for no longer than it is necessary to the performance of its supervisory tasks.

- (4) An application for authorisation should contain a programme of operations covering the three years following the authorisation, describing the main features and mechanisms relating to the asset-referenced token for which the authorisation is sought, the applicant issuer's business model, including any other issuance or financial or nonfinancial activity, the business strategy and risk assessment with a view to providing the competent authority with a comprehensive view of the applicant issuer's current and planned operations and related organisation.
- (5) As part of the programme of operations, the application should also contain a quantitative description of the business plan including the financial forecasts supporting the explanation of its viability, ongoing sustainability and the applicant issuer's ability to meet prudential requirements in the three years following the grant of authorisation in a baseline and in a stress scenario.
- (6) Issuers of an asset-referenced token, which are not crypto-asset service providers or other obliged entities, are not subject to the obligations set out in Directive 2015/849/EU on preventing the use of the financial system for the purposes of money laundering ('ML') or terrorist financing ('TF') or to the obligations set out in Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets and amending that Directive. However, it is crucial that the applicant issuer's business model is structured in a manner that does not expose the issuer or the sector to serious risks of ML and TF, since this constitutes a ground of refusal of the authorisation. Accordingly, the applicant issuer should provide adequate information to enable the competent authority's assessment of the business model's exposure and sensitivity to such risks, including information on the mechanisms and arrangements related to the issuance, redemption and distribution of an asset-referenced token, the envisaged involvement of crypto-asset service providers in such mechanisms, the overall risk assessment in respect of ML/TF. Additionally, in the case where the applicant issuer envisages to have arrangements in place with specific crypto-asset service provider or providers, the application should include a forward-looking description prepared by such crypto-asset service provider or providers of the internal controls and continuous compliance with the relevant anti-money laundering and counter terrorism financing provisions rules of the Union, which integrate international standards.
- (7) The application should contain clear and comprehensive information on the applicant issuer's organisation, operational structure and governance arrangements showing their adequacy and robustness to ensure the sound and prudent management of the issuer. The application should contain the description of the arrangements with third-party service providers of critical or important functions to ensure that they are in compliance with applicable requirements. For sake of legal certainty, it is worth clarifying that whilst third-

²⁵⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC -General Data Protection Regulation- (OJ L 119, 4.5.2016, p. 1–88).

party service providers are external to the applicant issuer, they may be undertakings belonging to the same group of the applicant issuer.

- (8) Effective internal control framework, including risk management and Information and Communication Technology (ICT) systems and risk management are crucial to the sound and prudent management of the activities of the issuer and of the reserve assets in order to prevent, monitor and mitigate operational and other type of risks. Applicant issuers should therefore provide adequate documentation on their internal control framework and ICT risk management framework demonstrating that they are in compliance with the requirements set out in Regulation (EU) 2022/2554.
- (9) Reserve of assets are crucial to ensure the effectiveness of the stabilisation mechanism underpinning the asset-referenced token and the redemption rights of token holders at all times including in case of stress, applicant issuers should therefore submit with the application clear and detailed policies on the composition, constitution, segregation, custody and investment management of such reserve of assets.
- (10) Having regard to the requirement that the issuer of an asset-referenced token has to act fairly and honestly, it is necessary that applications provide the information and documents to prove that the members of the management body are of sufficiently good repute, knowledge, skills and experience. Therefore, the applicant issuer of an asset-referenced token should provide the competent authority with all necessary and sufficient information enabling the competent authority to carry out a comprehensive assessment of the members of the management body with a view to ensure that they meet suitability requirements and do not incur in the grounds of refusal of the authorisation set out in letters (a) and (b) of Article 21(2), of Regulation (EU) 2023/1114. For this purpose, the application should contain information about past convictions and pending criminal investigations, civil and administrative cases and other adjudicatory proceedings of the members of the management body, as well as relevant information to assess their professional experience, knowledge and skills in the areas relevant to financial services, crypto-assets, other digital assets, distributed ledger technology, digital innovation, information technology ('IT'), cybersecurity or management and information enable to assess the adequacy of their time commitment.
- (11) Similarly, in respect of shareholders and members directly or indirectly holding qualifying holdings in the applicant issuer, the application should contain all information enabling the competent authority to carry out a comprehensive assessment of the sufficiently good repute of such shareholders or members and that they do not incur in the ground of refusal of the authorisation set out in letter (c) of Article 21(2) of Regulation (EU) 2023/1114. For this purpose, the application should contain necessary and sufficient information about past convictions and pending criminal investigations, civil and administrative cases and other adjudicatory proceedings, as well as relevant information enabling the assessment of any suspicion of money laundering and terrorist financing in relation to the shareholders or members with direct or indirect qualifying holdings, and to establish the certainty and legitimate origin of the funds or other assets used to set-up the applicant issuer and finance its business.
- (12) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority. The European Banking Authority has developed these draft regulatory technical standards in close cooperation with the European Securities and Market Authority and with the European Central Bank.
- (13) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and

requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council²⁵⁹;

- (14) [The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁶⁰ and delivered an opinion on 24 January 2024];

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

- 1 For purposes of this Regulation the following definitions shall apply:
- a) 'group' means a group of undertakings of which at least one is an issuer of asset-referenced tokens that has been authorised pursuant to Article 21 of Regulation (EU) 2023/1114 and which consists of a parent undertaking and its subsidiaries, or of undertakings that are related to each other as set out in Article 22 of Directive 2013/34/EU²⁶¹ on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings;
 - b) 'critical or important function' means a function that is critical or important to the issuer of an asset-referenced token so that a defect or failure in the performance of that function materially impairs the continuing compliance of the issuer of the asset-referenced token with the conditions of authorisation or with the requirements under Title III of Regulation (EU) 2023/1114 or with the financial performance of the issuer of an asset-referenced token.

Article 2

Information about the identity of the applicant issuer

- 1 An application for authorisation shall contain all of the following information about the identity of the applicant issuer:
- (a) the full name and contact details, including the phone number and email address, of the person within the applicant issuer to contact regarding the application;
 - (b) the full name and contact details, including the phone number and email address, of the principal professional adviser, if any, used to prepare the application;

²⁵⁹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331 15.12.2010, p. 12).

²⁶⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

²⁶¹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182 29.6.2013, p. 19).

- (c) the applicant issuer's current full legal name, trading name, logo, website addresses of all communication and marketing channels including social media accounts and, where applicable, any intended changes to those names, accounts or addresses;
- (d) the applicant issuer's validated, issued and duly renewed ISO 17442 legal entity identifier released in accordance with the terms of any of the accredited Local Operating Units of the Global Legal Entity Identifier System;
- (e) the applicant issuer's legal form;
- (f) the date and Member State of the applicant issuer's incorporation or formation;
- (g) the Member State and addresses of the applicant issuer's registered office and, where different, of its head office, and of its principal place of business;
- (h) where the applicant issuer is registered in a central register, commercial register, companies register or similar public register different from the register referred to under point (i), the name of that register and the registration number of the applicant or an equivalent means of identification in that register and a copy of the registration certificate;
- (i) the applicant issuer's instruments of constitution, and the statute if it is contained in a separate document filed in the register designated by the law of the Member State concerned in accordance with Article 16 of Directive (EU) 2017/11329 on certain aspects of company law;
- (j) where the applicant issuer is an undertaking that is not a legal person, a legal opinion certifying that the level of protection ensured to third party interests, such as the rights of the holders of an asset-referenced token, is equivalent to that afforded by legal persons and that the applicant issuer is subject to equivalent prudential supervision appropriate to their legal form;
- (k) the date of the accounting year end for the applicant issuer.

Article 3

Programme of operations: information on the business model, strategy and risk profile

1. The application shall contain the white paper with all the information set out in Annex II Regulation (EU) 2023/1114, and a programme of operations laying down the applicant issuer's business model, strategy and risk assessment for the three years following the granting of the authorisation.
2. Without prejudice to all the information contained in the white paper, the programme of operations shall include all the following items:
 - (a) information on the applicant issuer's business activities, namely:
 - (i) main features of the asset-referenced token for which the authorisation is sought, including all of the following:
 1. the name and type of asset-referenced token that the applicant issuer intends to issue and for which authorisation to offer to the public or to seek admission to trading is sought;
 2. specification as to whether the authorisation is sought for an offer to the public or an admission to trading of such asset-referenced token;

3. the legal opinion referred to in letter (e) of Article 18 of Regulation (EU) 2023/1114;
 4. description of the mechanism through which the asset-referenced token is issued, including the smart contracts together with an explanatory document on their functioning, the method of payment to buy the asset-referenced token, and the distribution channels, notably the crypto-asset service providers executing selling orders or crypto-asset exchange platforms. Where the applicant issuer envisages to appoint, upon being granted authorisation, other entities to carry out the offer to the public or the admission to trading of the asset-referenced token, the application shall include policies and procedures clarifying, among other things, that the responsibility for the compliance with the requirements set out in Title III of Regulation (EU) 2023/1114 will remain with the issuer of an asset-referenced token that has been granted authorisation and that such other entities appointed via consent in writing by the authorised issuer of an asset-referenced token will be subject to conduct and marketing requirements as specified in Article 16, paragraph (1), second subparagraph of such Regulation;
 5. where an agreement is entered into for the distribution of the asset-referenced token, the application shall indicate the name and contact details of the distributors and illustrate the roles, responsibilities, rights and obligations of both the issuer of the asset-referenced token and the distributor or distributors, including the law applicable to the contract;
 6. description of the mechanism through which the asset-referenced token is redeemed, including, where applicable, the indication whether crypto-asset service provider(s) will be involved in the execution of the redemption;
 7. the protocol or consensus mechanism used for validating transactions, including the description of the settlement finality features;
 8. the distributed ledger technology or distributed ledgers technology where the asset-referenced token is issued and the so-called bridges between such different distributed ledgers technology that are available at the time of the application, as indicated in the white paper;
- (ii) any outstanding asset-referenced token, e-money token, crypto-assets or other digital assets issued by the applicant issuer, with the indication of the related outstanding amounts; the networks and markets where they are distributed and traded; the amount, composition, custody arrangements and custodians of the related reserve of assets, or safeguarding requirements for e-money tokens as applicable;
- (iii) any other financial and non-financial activity that is carried out by the applicant and that the applicant intends to continue to carry out in case the authorisation is granted, as well as the interaction among such activities. As regards services provided by the applicant issuer not covered by Regulation (EU) 2023/1114, the application shall contain the reference to the applicable Union or national law;
- (iv) where the applicant issuer belongs to a group, an overview of the organisation and structure of the group of which the applicant issuer is part, describing the activities of the entities in the group and indicating the parent undertakings, financial holding companies, mixed financial holding companies and investment holding companies within the group, as well any authorisation, registration or other licenses granted by a competent authority in the financial sector held by any such group entity or by the applicant issuer;
- (b) description of the business environment where the applicant issuer will operate, focusing on the crypto-asset and payment sectors, including:

- (i) the main existing market players and principal peers;
- (ii) the likely development of the business environment and the related potential risks;
- (iii) an analysis of the applicant issuer's competitive position in the market;
- (c) description of the applicant issuer's overall business strategy and, where the applicant issuer belongs to a group, the overall group strategy, including:
 - (i) explanation of the strategic goals;
 - (ii) indication of the key business drivers;
 - (iii) indication of any identified competitive advantage, such as any prior experience in the digital sector, size and scalability of the business, DLT specificities such as permissioned or permissionless access, related validation protocols and consensus mechanisms or the planned number of transactions per second;
 - (iv) description of the target customers, such as retail, corporate, institutional, small and medium enterprises, public entities, of the target markets and geographical distribution, including the list of host Member States in accordance with letter (r) of Article 18(2) of Regulation (EU) 2023/1114;
 - (v) a risk assessment covering the actual or potential risks that the planned business may be exposed to, including:
 - business risk factors, such as failure to reach the minimum target subscription goal of the asset-referenced token issuance, where envisaged;
 - operational risk, fraud, ICT and cyber-security risks;
 - financial risks including liquidity risk, market and credit risk;
 - risks related to the significant third-party providers;
 - inherent and residual risks of money laundering and terrorist financing, also having regard to the mechanisms and arrangements relating to the issuance, redemption and distribution of the asset-referenced token;
 - (vi) matrix resulting from the interaction of the strengths, weaknesses, opportunities and threats of the business strategy.

Article 4

Programme of operations: financial information on the business plan

1. The application shall contain a business plan explaining the initial viability and the on-going sustainability of the applicant issuer's business model and the applicant issuer's capability to comply with prudential requirements for a period of three years from the grant of authorisation on a baseline and on a stress scenario.
2. The stress scenario of the business plan shall rely on severe but plausible stress situations, similar to those designed in accordance with Commission Regulation EU 202X/[PO Please insert the short title of Commission Delegated Regulation on own funds requirements under Article 35(6)(d) of Regulation (EU) 2023/1114. In

footnote include full title]. For applicant issuers referred to in paragraph (4), the stress scenario shall pay particular attention to liquidity stress situations.

3. The business plan assumptions shall be credible and realistic and shall rely on official macroeconomic forecasts elaborated by a public EU or national institution.

4. Where the application relates to the offer to the public or admission to trading of an asset-referenced token for which voluntary classification as significant is sought, the business plan shall clearly illustrate that the proposed issuance meets the requirements set out in Article 44 of Regulation (EU) 2023/1114 and shall adequately reflect the applicant issuer's higher complexity and risk profile.

5. Without prejudice to the information to be contained in the white paper in accordance with the Annex 2 of Regulation (EU) 2023/1114, the business plan shall contain the forecast financial information on the applicant issuer at individual level and, where applicable, at consolidated level, supporting the explanation of the business profitability and its credibility including:

- (i) forecast accounting plans for the three years following the granting of authorisation, including:
 - 1) forecast balance sheets;
 - 2) forecast profit and loss accounts or income statements, detailing the envisaged sources of revenues (such as fees or revaluation of reserve of assets), fixed and variable costs (notably labour, administrative, distributed ledger technology, ICT, custody and management of reserve of assets or third-party arrangements);
 - 3) forecast cash flow statements, where applicable;
 - 4) forecast growth rates with an explanation of the associated risk assumptions, including the applicant issuer's risk management capabilities;
- (ii) an explanation linking the elements of the programme of operations set out in Article 3, paragraph (2) with the forecasts referred to in point (i);
- (iii) planning assumptions for the forecasts referred to in point (i), including expected number of token holders, expected number and value of transactions per day and expected average number and average aggregate value of transactions per day for the business plan time horizon, profitability drivers, as well as explanations of the quantitative information set out in the plan;
- (iv) calculations of the applicant issuer's own funds requirements pursuant to Article 35(1) of Regulation (EU) 2023/1114 covering the three-year business plan time horizon, without prejudice to the competent authorities' power to impose additional own funds requirements in accordance with Article 35(3), of that Regulation, as specified in Commission Regulation EU 202X/XX [PO Please insert the short title of Commission Delegated Regulation on own funds requirements in accordance with Article 35(6) of Regulation (EU) 2023/1114. Long title in footnote], as well as:
 - (1) supporting evidence (such as audited financial statement or extract from the companies register) of the issued capital, paid-up capital and capital which has not yet been paid-up. For capital corresponding to the calculated own funds which has not yet been paid up, evidence of the deposit of such amount in escrow account with a credit institution, and
 - (2) information on the legitimate origin of the funds used or to be used to pay-up the capital, set out in Article 8 of Commission Regulation XXX/XX/EU [PO Please insert the short title of Commission

Delegated Regulation on information notification of qualifying holdings in accordance with Article 42(4) of Regulation (EU) 2023/1114. Long title in footnote];

- (v) forecast calculations of the amount and composition of the reserve of assets and their adequacy to ensure the permanent exercise of the redemption rights throughout the business plan time horizon.
6. The programme of operations shall also contain the applicant issuer's past financial information, namely:
- (i) statutory financial statements of the applicant issuer, at individual level and, where applicable, at consolidated and sub-consolidated level, approved by the statutory auditor (where applicable) or external audit firm, covering at least the last three financial years preceding the application, including:
 - (1) the balance sheet at solo and consolidated or sub-consolidated level where applicable;
 - (2) the profit and loss accounts or income statements at solo, consolidated and sub-consolidated level where applicable;
 - (3) cash flows statement at solo, consolidated and sub-consolidated level where applicable;
 - (ii) an outline of any indebtedness incurred or expected to be incurred by the applicant issuer prior to the offer to the public or the admission to trading of the asset-referenced token, including, where applicable, the name of the lenders, the maturities and terms of such indebtedness, the use of the proceeds and, where the lender is not a supervised financial institution, information on the origin of the borrowed funds or on the funds expected to be borrowed;
 - (iii) an outline of any security interests, guarantees or indemnities granted or expected to be granted by the applicant prior to the offer to the public or the admission to trading of the asset-referenced tokens;
 - (iv) where available, information about the credit rating of the applicant issuer and, where applicable, the overall rating of its group;
 - (v) where the applicant issuer has been set-up for less than three years, for the years not covered by financial statements, an updated summary as close as possible to the date of application, of the applicant issuer's financial situation and the financial statements of the previous three years of the shareholders or members with qualifying holdings that are a legal person or the tax declaration of the shareholders or members with qualifying holdings that are a natural person.

Article 5

Information about the internal governance arrangements and the structural organisation

1. The application shall contain clear and comprehensive information on the applicant issuer's organisation, operational structure and governance arrangements showing that they are well designed to ensure the sound and prudent management of the applicant issuer, and shall include the following items:
- (i) the organisational chart laying down the operational structure in terms of business lines and units and related allocation of staff, the interactions between the applicant issuer's various functions, the indication of clear and effective reporting lines and allocation of responsibilities reflecting the applicant issuer's business activities;
 - (ii) the terms of reference of the management body, with a mapping of the roles, duties and reporting lines of each member;

- (iii) a detailed and comprehensive description of the foreseen number and profile of human resources - such as indication of seniority, skills, expertise - and of the technical resources - such as specific features and functions, up-to-datedness, innovative character - allocated to all planned activities and functions, as well as the related budget, with an explanation of their adequacy to implement the business plan. The application shall also illustrate the actual state of play of the implementation of the envisaged operational structure, including the recruiting plan for the human resources, and the acquisition and operationalisation of the technical resources;
 - (iv) detailed description of the procedures and arrangements to ensure the accurate and timely reporting of data relating to the asset-referenced token;
 - (v) a description of the code of conduct laying down the issuer's ethical and professional corporate values and the risk culture;
 - (vi) a description of the complaints handling policy, in accordance with the requirements set out in Article 31 of Regulation 2023/1114, specified in Commission Regulation EU 202X/XX [PO Please insert the short title of Commission Delegated Regulation on complaints handling in accordance with Article 31(5) of Regulation (EU) 2023/1114. Long title in footnote];
 - (vii) a description of the conflicts of interest policy, in accordance with the requirements set out in Article 32 Regulation 2023/1114, specified in Commission Regulation EU 202X/XX [PO Please insert the short title of Commission Delegated Regulation on conflicts of interest in accordance with Article 32(5) of Regulation (EU) 2023/1114. Long title in footnote];
 - (viii) a description of the market abuse policy ensuring the issuer's adherence to appropriate standards preventing market abuse;
 - (ix) a description of the whistleblowing policy ensuring that staff can safely report actual or potential breaches of regulatory or internal requirements;
 - (x) a description of the procedures ensuring that the issuer of an asset-referenced token will comply with all the disclosure requirements towards the holders of the asset-referenced token set out in Article 30 Regulation 2023/1114];
2. The application shall contain the names and contact details of all third-party service providers of critical or important functions and a description of such third-party arrangements including all of the following:
- (i) the location of the third-party service provider and where applicable the location where the data are stored or processed;
 - (ii) the rationale for the use of a third-party service provider to support or perform critical or important functions;
 - (iii) the human, financial and technical resources of the third-party service provider related to the critical or important function;
 - (iv) the applicant issuer's internal control system for monitoring and managing the arrangement with the third-party provider;
 - (v) the business continuity plans in the event that the third-party service provider cannot provide continuity of service;

- (vi) the content of the contractual arrangements regarding the obligation to ensure information access and inspection and audit rights to both the applicant issuer and the competent authority;
- (vii) the reporting line to the management body.

Article 6

Information on the internal control framework

1. The application shall contain a comprehensive description of the applicant issuer's internal control framework including all the following information:

- (i) a comprehensive description of the internal compliance function having sufficient authority, stature, resources and direct access to the management body;
- (ii) a comprehensive description of the risk management framework, and of the risk management function where it is established, or where in accordance with proportionality criteria it is entrusted to a third-party provider, of the related arrangements in accordance with Article 5, paragraph (2);
- (iii) a comprehensive description of the risk management systems and controls, explaining the applicant's strategy for identifying, assessing, monitoring, mitigating and reporting all risks the applicant is or might be exposed to, including risks to the holders of an asset-referenced token, market, liquidity, concentration, operational, ICT, reputational, legal, conduct, compliance, ESG, money laundering and terrorism financing and strategic risks. Such description shall also include the applicant's risk appetite statement and its risk tolerance, including the envisaged processes and measures to manage the identified risks within the risk appetite;
- (iv) a comprehensive description of the internal audit function where it is established or, in accordance with proportionality criteria, in case it is entrusted to a third-party provider, a comprehensive description of the related arrangements in accordance with Article 5, paragraph (2), as well as the name and contact details of the firm that will be appointed as external auditor;
- (v) an explanation of the governance arrangements implemented to ensure the separation and adequate segregation of duties of the business lines and units from the internal control functions, and an explanation of the arrangements implemented to ensure the independence of the internal control functions including through their direct access to the management body in its management and in its supervisory function.

2. The application shall contain a description of the arrangements and assigned ICT and human resources to ensure that the applicant issuer complies with Regulation (EU) 2022/2554 on digital operational resilience for the financial sector, including all of the following information in relation to the applicant issuer's ICT systems, protocols and tools:

- (a) a detailed technical documentation including a description of the ICT risk management framework in accordance with Article 6(1) of Regulation (EU) 2022/2554, demonstrating the applicant issuer's ability to address ICT risk rapidly, efficiently and comprehensively and to ensure a high level of digital operational resilience;
- (b) details showing that the applicant issuer maintains updated ICT systems, protocols and tools that are appropriate, reliable, equipped with sufficient capacity to accurately process the data necessary for the performance of activities and the timely provision of services, and technologically resilient in accordance with Article 7 of Regulation (EU) 2022/2554;

- (c) a detailed description of the security policy demonstrating that the applicant issuer's systems and procedures are capable to protect the availability, authenticity, integrity and confidentiality of data, information assets and ICT assets, including those of their customers in accordance with Article 9(4) of Regulation (EU) 2022/2554.
 - (d) a comprehensive description of the ICT process and systems showing the ability to provide the applicant issuer with reliable information and data to support risk data aggregation capabilities and data reporting requirements.
3. The application shall contain a description of the business continuity plan and policy which will aim at ensuring that the issuer's ability to operate on an on-going basis and to limit losses in the event of severe business disruption. For this purpose, the business continuity plan shall include the mapping of the essential data and functions, as well as an overview of available back-up and recovery systems as well as the availability of key staff in business continuity situations in line with Article 34(8) of Regulation (EU) 2023/1114 and Article 11(1) of Regulation (EU) 2022/2554.
4. Where asset-referenced tokens are issued, stored and transferred using a proprietary distributed ledger technology or similar technology operated by the issuer or by a third- party acting on its behalf, the application shall illustrate the functioning of the distributed ledger technology or of similar technology covering all of the following information:
- (a) the description of the applicant issuer's legal title towards the DLT or similar technology, whether it is right of property or other contractual relationships providing control of the distributed ledger technology or of the similar technology to the applicant issuer, irrespective of the circumstance that the distributed ledger technology is operated by a different undertaking;
 - (b) the name and contact details of the operator or operators of the distributed ledger technology if different from the applicant issuer;
 - (c) the applicant issuer's or third-party operator's plan on risk identification, monitoring, assessment, mitigation, and prevention, also having regard to the potential spill-over to other crypto-assets issued, transferred or stored on that distributed ledger technology and the related crypto-asset service providers, as well as the plan on the regular technological maintenance and update of the distributed ledger technology or of similar technology;
 - (d) a technical and security audit performed by an independent third party on the consistency of the DLT functioning with quality standards in use in the market, and on the appropriateness and adequacy of the plans referred in letter (c);
 - (e) in case the proprietary distributed ledger technology is permissioned, a detailed description of the transparency mechanisms;
5. Where cooperation arrangements between the applicant issuer and specific crypto-assets service providers are envisaged, the application shall contain a detailed description of the crypto-asset service provider's current internal control mechanisms and procedures ensuring the compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and, where applicable, Regulation (EU) 2023/1113²⁶² on information accompanying transfers of funds and certain crypto-assets. Such detailed description shall include a forward-looking assessment of the continuous compliance with such

²⁶² Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.6.2023, p. 1).

obligation for the three-year time horizon of the applicant issuer's business plan. Such description and forward-looking assessment prepared by the specific crypto-asset service provider may be exchanged by the competent authority with the competent authorities for anti-money laundering and counter-terrorist financing, financial intelligence units in line with Article 20, paragraph (2), second-subparagraph, of Regulation (EU) 2023/1114. Such a description and forward-looking assessment should also be submitted in case the applicant issuer is a crypto-asset service provider.

Article 7

Liquidity management, reserve assets and redemption rights

1. The application shall contain the following information ensuring compliance with the requirements on liquidity management and on the reserve assets:

- (i) the comprehensive and detailed framework illustrating the constitution, composition, management, and segregation of the reserve of assets, in accordance with the requirements set out in Article 36 of Regulation (EU) 2023/1114, and in the Commission Regulation EU 202X/XX [PO Please insert the short title of Commission Delegated Regulation on reserve of assets under Article 36(4) Regulation 2023/1114. Long title in footnote]. Where the applicant applies for voluntary classification of the asset-referenced token as significant asset-referenced token, the framework shall contain the liquidity management policy and procedures. The framework shall also illustrate the reporting lines to the management body and how the management body's responsibility for the prudent management of the reserve of assets will be ensured;
- (ii) the clear and detailed policy describing the stabilisation mechanism of the asset-referenced token for which the authorisation is sought;
- (iii) the name of the external consultant who will be in charge of the independent audit on the reserve of assets every six months in accordance with Article 36, paragraph (9) of Regulation (EU) 2023/1114;
- (iv) the detailed policy and procedures on the custody of the reserve assets, including the selected custody modality, ensuring compliance with the requirements set out in Article 37 of Regulation (EU) 2023/1114;
- (v) the clear and detailed investment policy of the reserve assets in accordance with the requirements set out in Article 38 of Regulation (EU) 2023/1114 and with Commission Regulation EU 202X/XX [PO Please insert the short title of Commission Delegated Regulation on the financial instruments that can be considered highly liquid and bearing minimal market risk, credit risk and concentration risk in accordance with Article 38(5) of Regulation (EU) 2023/1114];
- (vi) the details of the contractual arrangements entered into with third-parties for the operation, the investment and the custody of the reserve assets, in accordance with the policies referred to in points (iv) and (v). Such detailed description shall indicate the name and contact details of the third-party service providers, and illustrate the roles, responsibilities, rights and obligations of both the issuer of an asset-referenced tokens and the third-party service providers in going concern and in case of the implementation of the redemption plan including the law applicable to the contract. Where such services are considered critical activities for the orderly redemption within the meaning of Article 47(2), second sub-paragraph of Regulation (EU) 2023/1114, the description shall also indicate that the contract cannot be terminated, but will be operational in case of implementation of the redemption plan in accordance with Article 47(1) of that Regulation. The description of the contractual arrangements shall also include the requirements set out in Article 5, paragraph (2), as applicable.

The description of the contractual arrangements with third party service providers for the custody of the reserve of assets shall include the measures taken by the third-party service provider to ensure legal and operational separation from its own assets.

2. The application shall contain a clear and detailed policy and procedures ensuring the respect of the rights of redemption granted to the holders of the asset-referenced token in accordance with Article 39 of Regulation (EU) 2023/1114. The application shall also contain an outline of the recovery plan to be developed in accordance with Article 46 of Regulation (EU) 2023/1114 and of the redemption plan to be submitted in accordance with Article 47 of that Regulation.

Article 8

Identity and proof of good repute, knowledge, skills, experience and of sufficient time commitment of the members of the management body

1 An application for authorisation as an issuer of an asset-referenced token shall provide for each member of the management body all of the following personal individual details and information on good repute, knowledge, skills, experience, and time commitment:

- (a) the person's full name and, where different, name at birth;
- (b) the person's place and date of birth, address and contact details of the current place of residence and of any other place of residence in the past ten years, nationality(ies), and personal identification number or copy of an ID card or equivalent;
- (c) details of the position held or to be held by the person, including whether the position is executive or non-executive, the start date or planned start date and, where applicable, the duration of the mandate, and a description of the person's key duties and responsibilities;
- (d) a curriculum vitae containing details of education and experience (including professional experience, academic qualifications, other relevant training), including the name and nature of all organisations for which the person has worked and the nature and duration of the functions performed, in particular highlighting any activities, within the scope of the position sought, relevant to financial services, crypto-assets, or other digital assets, distributed ledger technology, information technology, cybersecurity, digital innovation or management experience;
- (e) personal history, including all of the following, in respect of the nationality or nationalities held by the person, and of the person's places of residence of the last ten years if different from the country of nationality or nationalities:
 - (i) criminal records, including criminal convictions and any ancillary penalties, and relevant information on pending or concluded criminal proceedings or investigations (including on money laundering, financing of terrorism, fraud or professional liability), relevant civil and administrative cases and disciplinary actions, including disqualification as a company director, bankruptcy, insolvency and similar procedures, through an official certificate or an equivalent document or, where such certificate does not exist, any reliable source of information concerning the absence of criminal convictions, investigations and proceedings. Official records, certificates and documents shall have been issued within three months prior to the submission of application for an authorisation;
 - (ii) a statement of whether the person or any organisation managed by the person has been involved as a debtor in insolvency proceedings or a comparable proceeding;

- (iii) information about investigations, enforcement proceedings or sanctions by a supervisory authority which the individual is or has been directly or indirectly involved in;
 - (iv) information about refusal of registration, authorisation, membership or licence to carry out a trade, business or profession, or the withdrawal, revocation or termination of registration, authorisation, membership or licence, or expulsion by a regulatory or government body or by a professional body or association;
 - (v) information about dismissal from employment or a position of trust, fiduciary relationship or similar situation, or the fact that the person was asked to resign from employment in such a position, excluding redundancies;
 - (vi) information about whether another competent authority has assessed the reputation of the individual, including the identity of that authority, the date of the assessment and the evidence of the outcome of that assessment;
 - (vii) information about whether an authority from another, non-financial, sector has assessed the individual, including the identity of that authority, the date of the assessment and evidence of the outcome of that assessment;
- (f) a description of all financial and non-financial interests that could create potential material conflicts of interest affecting his or her perceived trustworthiness in the performance of the mandate as member of the management body of the issuer of asset-referenced token, including, but not limited to:
- (i) any financial interests, including crypto assets, other digital assets, loans, shareholdings, guarantees or security interests, whether granted or received, and non-financial interests or relationships, including close relations such as spouse, registered partner, cohabitant, child, parent or other relation with whom the person shares living accommodation, between the person or his or her close relatives or any company that the person is closely connected with, and the applicant issuer of the asset-referenced token, its parent undertaking or subsidiaries, including any members of the management body or any person holding a qualifying holding in the applicant issuer of the asset referenced-token;
 - (ii) whether or not the person conducts any business or has any commercial relationship, or has had such relationship over the past 2 years, with any of the persons listed in point (f) n. (i), or is involved in any legal proceedings with any such persons;
 - (iii) whether or not the person and the person's close relatives have any competing interests with the applicant, its parent undertaking or its subsidiaries;
 - (iv) any financial obligations to the applicant issuer of asset-referenced tokens, its parent or its subsidiaries;
 - (v) whether the person was a politically exposed person as defined in point (9) of article 3 of Directive (EU) 2015/849 over the past 2 years;
 - (vi) where a material conflict of interest is identified, a statement of how that conflict will be satisfactorily mitigated or remedied, including a reference to the outline of the conflicts of interest policy;
- (g) information to show that the person has sufficient time to commit to the mandate, including:
- (i) the estimated minimum time, per year and per month, that the person will devote to the performance of his or her functions within the applicant issuer of asset-referenced tokens;

- (ii) a list of the predominantly commercial mandates that the person holds;
 - (iii) a list of mandates which are pursuing predominantly non-commercial activities or are set up for the sole purposes of managing the economic interests of the person concerned;
 - (iv) the size of the companies or organisations where the mandates referred to in point (iii) are held, including total assets, whether or not the company is listed and the number of employees of those companies or organisations;
 - (v) a list of any additional responsibilities associated with the mandates referred to in point (iv) of this point (g), including chairing a committee;
 - (vi) the estimated time in days per year dedicated to each mandate;
 - (vii) the number of meetings per year dedicated to each mandate.
- 2 The results of any suitability assessment of each person performed by the applicant issuer, including the following information:
- (a) the relevant board minutes;
 - (b) the document about the outcome of the suitability assessment;
 - (c) a statement of whether the individual has been assessed as having the requisite experience and, if not, but provided the minimum requisite experience is met, details of the training plan imposed, including the content, provider and date by which the training plan will be completed.
- 3 A statement regarding the applicant issuer of asset-referenced tokens overall assessment of the collective suitability of the management body documenting that collectively the management body possesses the appropriate knowledge, skills and experience to manage the issuer of asset-referenced tokens, including relevant board minutes or suitability assessment report or documents.

Article 9

Information relating to shareholders or members with qualifying holdings

The application shall contain information on the sufficiently good repute of shareholders and members with direct and indirect qualifying holdings in the applicant issuer, including all of the following:

- (a) a chart setting out the holding structure of the applicant issuer, including the breakdown of its capital and voting rights and the names of the shareholders or members with qualifying holdings;
- (b) for each shareholder or member holding a direct or indirect qualifying holding in the applicant, the information and documents on their identify and reputation set out in:
 - (i) Article 1, paragraph (1) and in Article 2, letters (a), (b), (d), (f) and (g) [PO Please insert the short tile of Commission Delegated Regulation on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114], in case of natural persons; or
 - (ii) Article 1, paragraph (2), (3), (4) or (5) and in Article 3, paragraph (1), letters (a) to (e), or in Article 3, paragraph (2) of [PO Please insert the short tile of Commission Delegated Regulation on information

for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114] in case of legal persons;

- (c) the identity of each member of the management body of the applicant issuer who has been or will be appointed by, or following a nomination from, such person with qualifying holdings, together with, to the extent not already provided, the information set out in Article 8, paragraphs (1) and (2);
- (d) each shareholder or member holding a direct qualifying holding in accordance with point (a) above shall indicate the following information about its holding:
 - (i) the number and type of shares or other holdings subscribed;
 - (ii) the nominal value of such shares or other holdings;
 - (iii) any premium paid or to be paid;
 - (iv) any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties;
- (e) information referred to in Article 6, letters (b), (d) and (e) of the [PO Please insert the short title of Commission Delegated Regulation on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114];
- (f) the information referred to in Article 8 of the [PO Please insert the short title of Commission Delegated Regulation on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114].

For purposes of letter (b), indirect qualifying holdings are those identified based on paragraphs (1) and (3) of Article 4 of Commission Delegated Regulation XX [PO Please insert the short title of Commission Delegated Regulation information for notification acquisition of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114].

Article 10

Entry into force

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

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

Done at Brussels,

Draft implementing technical standards on information to be included in an application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens under Article 18(7) of Regulation (EU) 2023/1114

COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX

laying down implementing technical standards for the application of Regulation (EU)

2023/1114 of the European Parliament and of the Council with regard to the establishment of standard forms, templates and procedures for the information to be included in the application, in order to ensure uniformity across the Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁶³, and in particular to Article 18(7), third subparagraph, thereof,

Whereas:

- (1) Commission Delegated Regulation XXX/XXX/EU [PO Please insert the short title of Commission Delegated Regulation on information for authorisation under Article 18(6) Regulation (EU) 2023/1114. Long title to be included in footnote] specifies the information to be contained in an application for authorisation to offer to the public or seek admission to trading of an asset-referenced token.
- (2) For the purposes of harmonisation, it is important that applicant issuers submit the information required for such authorisation in a uniform manner, using the same standard forms, templates and procedures across the Union.
- (3) To ensure a clear, transparent and uniform process applicable to the assessment of the application submitted to the competent authorities, it is opportune to clarify some procedural aspects and establish common reference dates.
- (4) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority. The European Banking Authority has closely cooperated with the European Securities and Markets Authority for the development of the draft implementing technical standards.
- (5) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010

²⁶³OJ L 150, of 9.6.2023, p. 40.

establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC²⁶⁴,

HAS ADOPTED THIS REGULATION:

Article 1

Submission of the application for authorisation to offer to the public or seek admission to trading of an asset-referenced token

1. Applicant issuers shall submit an application containing the information set out in Article 18(2) of Regulation (EU) 2023/1114, as specified in Articles 1 to 10 of Delegated Regulation (EU) XXX/XXX [PO Please insert the short title of Commission Delegated Regulation on information for authorisation under Article 18(6) Regulation (EU) 2023/1114] to their competent authority by filling in the standard form and template set out in Annex I and II.
2. Competent authorities shall indicate on their website the contact details for submitting an application for authorisation and shall make available on their website the standard form and template set out in Annex I and II.
3. Competent authorities shall indicate on their website the modalities for the submission of the application with all the requested information and documents, via upload on an internet portal indicated on the competent authority's website or by other electronic means or, for specific documents to be submitted in original in accordance with national law, in paper form. They shall clearly indicate on their website or internet portal, such documents to be submitted in original paper form.
4. Where competent authorities require the submission of part of the information also in paper form, the information submitted in paper form shall prevail.

Article 2

Assessment of completeness of applications

1. Applications shall be deemed to be complete if they contain all the required information referred in Article 1, paragraph (1) with the appropriate content and level of detail to enable the competent authority to carry out the assessment of the application. Where, in accordance with Article 1, paragraph (4), the competent authority requires part of the information in paper form, the application shall not be considered complete until the receipt of the information in paper form.
2. Where the information provided in the application, including the white paper, is assessed and found to be incomplete, the competent authorities shall immediately notify the applicant pursuant to Article 20, paragraph (1) of Regulation (EU) 2023/1114 and indicate the missing required information. Such notification shall be sent by the competent authority in paper format or by electronic means and shall indicate the contact details, the modalities, whether via upload on the internet portal, by electronic means or in paper form, and the deadline for the submission of the missing information, in accordance with Article 20, paragraph (3) of Regulation (EU) 2023/1114.
3. Upon an application being assessed as complete in accordance with paragraphs (1) of Article 20 of Regulation (EU) 2023/1114, the competent authority shall inform the applicant issuer of that fact, together with

²⁶⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council [+ full title], (OJ L [number], [date dd.mm.yyyy], [p.]).

the date of receipt of the complete application or, as the case may be, the date of receipt of the information that completed the application.

Article 3

Entry into force

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

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

Done at Brussels,

ANNEX I

Submission letter for applications for authorisation to offer to the public or to seek admission to trading of an asset-referenced token

Place and date: _____

FROM:

Name of the applicant:

Trading name, if different:

Address:

Contact details of the designated contact person within the applicant:

Name:

Position in the applicant issuer

Phone:

E-mail:

Contact details of the designated professional adviser:

Name

Address:

Phone:

E-mail:

TO:

Competent Authority:

Address:

Member State:

This is an application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token, submitted in accordance with Article 18(1) of Regulation (EU) 2023/1114, and with Commission Implementing Regulation (EU) XXXX/XXXX laying down implementing technical standards with regard to standard

APPENDIX 34: DRAFT RTS AND ITS ON INFORMATION FOR APPLICATIONS FOR AUTHORISATION TO OFFER TO THE PUBLIC OR TO SEEK ADMISSION TO TRADING OF AN ASSET-REFERENCED TOKEN

forms, templates and procedures for the information to be included in the application [PO Please insert the title of Commission Implementing under Article 18(7) Regulation 2023/1114].

1. Type of application (tick the relevant box):

- ☐ a) First authorisation to offer to the public or to seek admission to trading an asset-referenced token
- ☐ b) New authorisation to offer to the public or to seek admission to trading of an asset-referenced token following a previously granted authorisation by the same competent authority

2. Voluntary classification of asset-referenced tokens as a significant asset-referenced token

Please specify if the application includes the request for voluntary classification of the asset-referenced token as a significant asset-referenced tokens (please tick Yes or No)

☐ Yes

☐ No

We certify that the information provided in this application is true, accurate, complete and not misleading. Unless specifically stipulated otherwise, the information is up-to-date on the date of this application.

Information indicating a future date is explicitly identified in the application and we undertake to notify the authority in writing without delay if any such information should turn out to be untrue inaccurate, incomplete or is misleading.

[In case of a new application following a previous authorisation to offer to the public or to seek admission to trading of an asset-referenced token granted by the same competent authority, the submission letter should contain the following statement:

We acknowledge that an authorisation to offer to the public/to seek admission to trading of an asset-referenced token was granted by [this competent authority: name of the competent authority] on [DD/MM/YYYY] and in accordance with Article 18(3) of Regulation (EU) 2023/1114 the current application only contains the information that has changed in the meantime. We also certify that any information which has not been resubmitted in the current application is identical to that already in possession of the competent authority and that it is still true, accurate and up-to-date.

ANNEX II

Template for the application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token

Information to be provided to the competent authority

Application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token				
Information to be provided to the competent authority				
Field		Sub-field (short description of the referred provision)		Reference to Commission Delegated Regulation XXXX/XX/EU on information for authorisation under Article 18(6) Regulation (EU) 2023/1114 [PO Please insert the title of Commission Delegated Regulation under Article 18(6) Regulation 2023/1114]. (prevails over description in the sub-field column)
1	Type of application	1	Has the applicant issuer previously been granted an authorisation to offer to the public or to seek admission to trading of an asset-referenced token by the Authority? ☐ Yes ☐ No If yes, please submit only the information that has changed since the submission of application for authorisation, which has been granted	Article 18(3) Regulation (EU) 2023/1114
		2	Does the application include the request for voluntary classification of the asset-	Article 4(4)

APPENDIX 34: DRAFT RTS AND ITS ON INFORMATION FOR APPLICATIONS FOR AUTHORISATION TO OFFER TO THE PUBLIC OR TO SEEK ADMISSION TO TRADING OF AN ASSET-REFERENCED TOKEN

			referenced token as significant asset-referenced token? ☐ Yes ☐ No	
2.1	Identification of the applicant issuer: contact persons for the application	1 2	Full name and contact details of the person within the applicant issuer to contact regarding the application Full name and contact details of the principal professional adviser (where applicable)	Article 2(1), (a) and (b)
2.2	Identification of the applicant issuer: information on the applicant issuer's identity and legal form	1 2	Is the applicant issuer a legal person? ☐ Yes ☐ No If Yes, please submit information in sub-fields 2 and 4; if No, please submit the information in sub-fields 2, 3, and 4	
			Full legal name, trading name(s), internet address(es), marketing channels and logo(s), and any envisaged changes where applicable	Article 2(1)(c)
			LEI	Article 2(1)(d)
			Legal form, date and Member State of incorporation or formation, address(es)	Article 2(1), (e) – (g)
			Registration details in the relevant register where applicable and copy of the registration certificate	Article 2(1)(h)
			Instruments of constitution and the statute if contained in a separate document filed in the	Article 2(1)(i)

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			register under Article 16 Directive (EU) 2017/1132	
		3	Legal opinion certifying equivalent protection of third-party interests and of equivalent prudential supervision	Article 2(1)(j)
		4	Date of accounting year end	Article 2(1)(k)
3.1	Programme of operations: information on the business model, strategy and risk profile	1	White paper	Article 3(1)
		2	Main features of the asset-referenced token for which the authorisation to offer to the public and for admission to trading is sought, including all the information requirements listed in the relevant provision, such as the type of token, the object of the authorisation, legal opinion on the qualification of the asset-referenced token, mechanism of issuance and of redemption, the indication of the distributors, the policy on the appointment of other entities for the public offer or admission to trading, the protocol used, the distributed ledger(s) technology where the token is issued and the bridges between such distributed ledger(s) technology	Article 3(2)(a), n. (i), point 1 to 8.
		3	Information on any outstanding issuance of crypto-assets or other digital assets of the applicant issuer, as well as any other financial and non-financial activities of the applicant issuer, including the reference to the applicable Union or national law for those services not covered by Regulation 2023/1114	Article 3(2)(a), n. (ii) and (iii)

		4	Where applicable, description of the group and of the activities of the group entities	Article 3(2)(a) n. (iv)
		5	Description of the business environment where the applicant issuer will operate	Article 3(2)(b)
		6	Description of the applicant issuer's overall business strategy, the list of host Member States where the applicant issuer intends to offer the asset-referenced token to the public or where admission to trading is sought and, where applicable, the group strategy and risk assessment of the business plan.	Article 3(2)(c)
3.2	Programme of operations: financial forecast information, and past financial information	1	Forecast financial information: accounting plans for the three years following the granting of authorisation on a baseline and stress scenario basis, the related planning assumptions, and an explanation linking the description of the business activities, the business environment, the business strategy and, where applicable, the group strategy.	Article 4(5), n. (i) to (ii)
		2	Calculation of the own funds requirements for the three year business plan time horizon	Article 4(5) n. (iv)
		3	Calculation of the amount and composition of the reserve of assets and their adequacy to ensure the permanent exercise of the redemption rights throughout the business time horizon	Article 4(5) n. (v)
		4	Past financial information at individual, consolidated and sub-consolidated level as applicable	Article 4(6)

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4.1	Internal governance arrangements and structural organisation	1	Organisational chart, terms of reference of the management body, description of foreseen number and profile of human resources and technological resources, reporting procedure and arrangements, code of conduct, description of the complaints handling policy, description of conflicts of interest policy, description of market abuse policy, description of the whistleblowing policy, and description of procedure ensuring compliance with all the disclosure requirements	Article 5(1)
		2	The names and contact details of all third-party service providers of critical or important functions and a description of each such arrangement	Article 5(2)
4.2	Internal control framework: general aspects	1	Comprehensive description of the applicant issuer's internal control framework including: (i) the internal compliance function, (ii) the risk management framework and the risk management function or, where it is not established in accordance with proportionality criteria, the arrangements with third-party providers; (iii) the risk management systems and controls, including the strategy for identifying, assessing, monitoring, mitigating and reporting all risks; and (iv) the internal audit function or, where it is not established in accordance with proportionality criteria, the arrangements with third-party providers.	Article 6(1), n. (i)-(iv)
		2	An explanation of the governance arrangements implemented to ensure the separation and adequate segregation of duties of the business lines and units from	Article 6(1), n. (v)

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			the internal control functions, and independence of the internal control functions	
4.3	Internal control framework: ICT risk management	1	Documented description of the ICT risk management framework, including ICT systems, protocols and tools demonstrating that they are in compliance with with Article 6(1), (7) and 9(4) of Regulation (EU) 2022/2554	Article 6(2),(a) to (c)
		2	Comprehensive description of the ICT process and systems showing the ability to provide the applicant issuer with reliable information and data to support risk data aggregation capabilities and data reporting requirements	Article 6(2),(d)
		3	A description of the business continuity plan and policy which will aim at ensuring that the issuer's ability to operate on an on-going basis and to limit losses in the event of severe business disruption	Article 6(3)
4.4	Internal control framework – Proprietary distributed ledger technology or similar technology	1	Does the applicant issue, transfer or store asset-referenced tokens in a proprietary DLT or a similar technology operated by the issuer or by a third-party acting on its behalf? ☐ Yes ☐ No If yes, please submit information in sub-field 2	Article 6(4)
		2	The policy and procedure on the functioning of the DLT or similar technology covering (a) the description of the applicant issuer's legal title towards the distributed ledger technology; (b)	Article 6(4), (a) to (e)

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			the name and contact details of the operator if different from the issuer; (c) the applicant issuer's or third-party operator's plan on DLT risk identification, monitoring identification, assessment and mitigation, and prevention; (d) a technical and security audit by an independent third party on the consistency of the DLT functioning with quality standards in use in the market, and on the appropriateness and adequacy of the plans referred to above; (e) in case of permissioned DLT a detailed description of the transparency and control mechanisms	
4.5	Internal control framework: AML/CFT	1	In case of cooperation arrangements between the applicant issuer and specific crypto-assets service providers are envisaged, or where the applicant issuer is a crypto-asset service provider, a detailed description by the crypto-asset service provider of the its internal control mechanisms and procedures ensuring the compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and as applicable Regulation (EU) 2023/1113, including a forward-looking assessment of the continuous compliance with such obligations for the time horizon of the applicant issuer's business plan	Article 6(5)
5	Liquidity management, reserve assets and redemption rights	1	(i) Description of a comprehensive and detailed framework illustrating the constitution, composition, management, and segregation of the reserve of assets; (ii) a clear and detailed policy describing the stabilisation	Article 7(1)

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			mechanism of the asset-referenced token; (iii) the detailed policy and procedures on the custody of the reserve of assets, including the selected custody modality; (iv) the clear and detailed investment policy of the reserve assets; (v) the details of the contractual arrangements entered into with third-parties for the operation, investment and the custody of the reserve assets	
		2	The name of the external consultant who will be in charge of the independent audit on the reserve of assets every six months	Article 7(1), n. (iii)
		3	The liquidity management policy and procedures, the reporting lines to the management body and how the management body's responsibility for the prudent management of the reserve of assets will be ensured	Article 7(1), n. (i)
		4	Clear and detailed policy and procedures ensuring that the rights of redemption granted to the holders of the asset-referenced tokens in accordance with Article 39 MiCAR will be met, and an outline of the redemption plan to be submitted in accordance with Article 46 MiCAR	Article 7(2)
6	Members of the management body: identity and proof of good repute, knowledge, skills and experience	Information included in field 6, sub-fields 1-5 to be submitted for each member of the management body		
		1	Full name, name at birth, place and date of birth, address and contact details of the current place of residence, places of residence in the past ten years, nationalit(y/ies), identification number, copy of ID card	Article 8(1), (a), (b), (c)

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		2	Curriculum vitae, including details of the position held, including start date and duration of mandate, description of key duties and responsibilities	Article 8(1)(d)
		3	Personal history, previous assessment(s) and criminal records	Article 8(1)(e)
		4	Description of all financial and non-financial interests with person indicated which would materially affect the perceived trustworthiness of the member	Article 8(1)(f)
		5	Information on time commitment	Article 8(1)(g)
		6	Results of any suitability assessment of each person performed by the applicant issuer and statement of the collective suitability of the management body	Article 8(2) and (3)
7	Shareholders and members with direct and indirect qualifying holdings in the applicant issuer: information on their sufficiently good repute	Information included in fields 7.1 – 7.3 to be submitted for each shareholder or member with direct or indirect qualifying holdings in the applicant issuer		
		1	Identification of shareholders and members: A chart setting out the holding structure of the applicant issuer with breakdown of its capital and voting rights and the names of the shareholders or members with qualifying holdings	Article 9 (a)
		2	Does the holding structure of the applicant issuer include shareholders acting in concert? ☐ Yes ☐ No	

7.1	Information on shareholders and members with direct or indirect qualifying holdings that are natural persons	1	Information about the identity and the integrity of direct or indirect shareholders or members that are natural persons: - identity of the natural person, in accordance with information requirements set out in Article 1(1) of [RTS information for notification of acquisition of QH] - criminal, administrative or civil convictions, sanction, on-going investigations and proceedings, in accordance with Article 2(a) of [RTS information for notification of acquisition of QH] - information on previous assessment in accordance with Article 2(b) of [RTS on information for notification of acquisition of QH]; - description of current business activities of the person and of any undertaking which the person directs or controls, in accordance with Article 2(d) of [RTS on information for notification of acquisition of QH]; - financial and non-financial interests of the person and information on how these interests are managed, in accordance with Article 2(f) and (g) of [RTS on information for notification of acquisition of QH]	Article 9 (b), n. (i)
7.2	Information on shareholders and member with direct or indirect qualifying holdings that are legal persons	1	Information about the identity and integrity of direct or indirect shareholders or members that are legal persons: - identity of the legal person, ultimate beneficial owner, members of the management body or persons who effectively direct the business and information relating to their	Article 9(1)(b), n. (ii)

			suitability, as well as the other information requirements set out in set out in Article 1(2), (3), (4) or (5) as applicable of [RTS information for notification of acquisition of QH]; - criminal, administrative or civil convictions, sanction, on-going investigations and proceedings, as referred to in Article 3(1)(a)(i) of [RTS information for notification of acquisition of QH] relating to the shareholder or member; - information on previous suitability assessment, as referred in Article 3(1), (a)(ii) of [RTS on information for notification of acquisition of QH], - description of current business activities of the legal person and of any undertaking which the person directs or controls, as referred in Article 3(1)(a)(iii) of [RTS on information for notification of acquisition of QH]; - financial information including credit ratings and publicly available reports on any undertakings directly or indirectly controlled by the legal person as referred to in Article 3(1)(a)(iv) of [RTS on information for notification of acquisition of QH]; - description of financial and non-financial interests of the legal person and a description how these interests are managed, in accordance with Article 3(1)(b) and (c) of [RTS on information for notification of acquisition of QH]; - the legal person's shareholding structure with the identity of all shareholders exerting significant influence and their respective share of capital and voting rights	

			including information on any shareholders agreements, in accordance with Article 3(1)(d) of [RTS on information for notification of acquisition of QH]; - where the legal person is part of a group, as a subsidiary or as the parent company, a detailed organisational chart of the group structure and information on the activities currently performed by the entities of the group, in accordance with Article 3(1)(d) of [RTS on information for notification of acquisition of QH]. - where the direct or indirect member or shareholder has its head office in a third country. the information set out in Article 3(2) of [RTS on information for notification of acquisition of QH]	
7.3	Information common to shareholders and members with direct or indirect qualifying holdings that are natural or legal persons	1	Identity and information on the member(s) of the management body of the applicant issuer who has been or will be appointed by the shareholder or member with qualifying holdings	Article 9(1)(c)
		2	Information on the qualifying holding: (number and type of shares or other holdings subscribed, the nominal value, any premium paid or to be paid, any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties)	Article 9(1)(d)
		3	Information on the intention with regard to the qualifying holding (strategic investment, portfolio management): Information on actions in concert with other parties, including the	Article 9(e)

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			contribution of those other parties to the financing of the proposed acquisition Content of intended shareholder's agreements with other shareholders in relation to the target entity	
		4	Information on the financing of the acquisition of the qualifying holding and of the business of the applicant issuer in order to prove their legitimate origin, in accordance with Article 8 [RTS on information for notification of acquisition of QH]	Article 9(f)

APPENDIX 35: DRAFT RTS TO FURTHER SPECIFY THE LIQUIDITY REQUIREMENTS OF THE RESERVE OF ASSETS UNDER ARTICLE 36(4) OF REGULATION (EU) 2023/1114

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

of XXX

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards for further specifying the liquidity requirements of the reserve of assets

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁶⁵, and in particular Article 36(4), fifth subparagraph, and Article 45(7) (b), fourth subparagraph, thereof,

Whereas:

- (1) In the determination of the minimum amount of the reserve of assets maturing in one or five working days, including assets received in reverse repos that can be terminated in one or five working days or deposits withdrawable with a one- or five-working-day prior notice, it is necessary to follow the calibration established in Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017²⁶⁶ and to draw on the experience of observed empirical crises related to crypto-activities. Such a minimum amount should be calibrated to ensure the ability to meet the redemption requests by token holders at any time, including under stress. Its calibration should take into account the size, complexity and nature of the reserve of assets and of the asset-referenced tokens, and differentiate tokens that are not significant from those that are significant, and which have an higher amount of required deposits in each official currency referenced, as well as crypto-activities with a higher interconnectedness with the financial system or a higher international scope. Conversely, it is unnecessary to introduce other longer maturities requirements to address the same risks.
- (2) It is necessary to take into account the benefits and potential risks that could arise as a consequence of the reserve of assets being potentially made of a large amount of deposits with credit institutions. In order to ensure a proper liquidity management of those deposits, it is necessary to introduce specific techniques for it to mitigate potential risks. Considering the potential material size of this part of the reserve of assets, any failure of the counterparty bank or simply a sudden and large withdrawal of these deposits as a consequence of redemption requests might trigger significant negative consequences to the financial stability. For these purposes, it is necessary to specify liquidity requirements of the reserve of assets in the form of required liquidity management techniques of the deposits held in the reserve of assets.
- (3) The sound management of the reserve of assets dictates that the credit institutions, with whom such reserve assets are deposited, are subject to creditworthiness requirement calibrated in a way that

²⁶⁵ OJ L 150, 9.6.2023, p. 40.

²⁶⁶ Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8).

creditworthy credit institutions can be found in any Member State. Sound management should also ensure that token redemption is facilitated and not prevented or hindered. Therefore, adequate diversification must be ensured and concentration limits should be set out. These limits should concern the maximum amount of the reserve of assets that can be deposited in a single credit institution and the threshold should be set both against the total reserve of assets and against the credit institution's total balance sheet. These thresholds are necessary to ensure both that an adequate number of credit institutions can be approached for redemption and that redemption will not be hindered by its potential high impact on a single credit institution's total balance sheet.

- (4) To ensure a sound liquidity management of the reserve of assets, it is necessary to introduce a minimum mandatory overcollateralisation of the market value of the reserve of assets relative to the market value of the assets referenced, with the aim to cover the absence of haircuts in the computation of the highly liquid financial instruments in the reserve of assets, to mitigate the volatility and seek for correlation of the market value of the assets referenced with respect to the reserve of assets. The mandatory overcollateralisation should be calibrated to follow a historical look-back approach, taking into account the size, complexity and nature of the reserve of assets and of the assets referenced by the tokens.
- (5) The minimum amount of deposits with credit institutions to be held in the reserve of assets related to tokens that are not significant and are referenced to official currencies should be kept to 30% of the amount referenced, or to 60% if the token is significant, and not raised any higher, as those percentages represent a good balance between the benefits for a timely redemption of the tokens upon request, and the risk of potential contagion in case of a crisis arising from the interconnectedness between crypto-activities and the financial system.
- (6) Considering that requirements set out in Articles 36 and Article 45(1) to (4) of Regulation (EU) 2023/1114 also apply to electronic money institutions issuing emoney tokens (either significant or, where decided, non-significant), as per Article 58(1), point (a), and (2) of that Regulation, this Regulation should also apply to issuers of e-money tokens that are subject to or required to comply with those requirements.
- (7) There is a need to ensure, without prejudice to the withdrawal of the authorization in accordance with Article 24 Regulation (EU) 2023/1114, that, in cases of deviations from the requirements set out in this Regulation, a plan is promptly submitted to the competent authority as a liquidity management technique.
- (8) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (9) The European Banking Authority, in close cooperation with the European Supervisory Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁶⁷ and with the European Central Bank, has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,²⁶⁸

HAS ADOPTED THIS REGULATION:

²⁶⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

²⁶⁸ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Article 1

Maximum maturities applicable to the reserve of assets related to tokens referencing official currencies

1. For tokens referencing official currencies, the percentage of the market value of the reserve of assets according to daily maturities, including the percentage of reverse repurchase agreements that are able to be terminated by giving prior notice of one working day, and the percentage of cash that is able to be withdrawn by giving prior notice of one working day, to the total market value of the overall reserve of assets shall be the following:

- (a) at least 40% for significant tokens
- (b) at least 20% for tokens, which have not been deemed as significant.

2. For tokens referencing official currencies, the percentage of the market value of the reserve of assets according to weekly maturities, including the percentage of reverse repurchase agreements that are able to be terminated by giving prior notice of five working days, the percentage of cash that is able to be withdrawn by giving prior notice of five working days, and the percentage of daily matured assets as referred to in paragraph 1, to the total market value of the reserve of assets shall be the following:

- (a) at least 60% for significant tokens;
- (b) at least 30% for tokens, which have not been deemed as significant.

Article 2

Maximum maturities applicable to the reserve of assets related to tokens not referencing to official currencies

1. For significant tokens not referencing official currencies, at least 20% of the reverse repurchase agreements and cash of the reserve of assets shall be able to be terminated or withdrawn by giving prior notice of one working day.

For significant tokens not referencing official currencies, the percentage referred to in the first subparagraph shall be 40%.

2. For tokens not referencing official currencies, at least 30% of the reverse repurchase agreements and cash of the reserve of assets shall be able to be terminated or withdrawn, respectively, by giving prior notice of five working days.

For significant tokens not referencing official currencies, the percentage referred to in the first subparagraph shall be 60%.

The percentages referred to in the first and second subparagraphs shall be calculated including the assets referred to in paragraph 1.

Article 3

Deposits with credit institutions

1. Issuers of asset-referenced tokens referencing official currencies and e-money institutions issuing e-money tokens subject to this Regulation shall hold in their reserve of assets deposits with credit institutions in each

official currency referenced by the tokens at least equal to 30% of the amount referenced in each official currency.

2. Issuers of significant asset-referenced tokens referencing official currencies and e-money institutions issuing significant e-money tokens subject to this Regulation shall hold in their reserve of assets deposits with credit institutions in each official currency referenced by the tokens at least equal to 60% of the amount referenced in each official currency.

Article 4

Minimum creditworthiness and liquidity soundness of bank deposit counterparties in the reserve of assets

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, holding deposits with credit institutions shall have no reason to expect non-performance by the credit institutions taking the deposits, in order to include those deposits in the reserve of assets
2. The assessment referred to in the previous paragraph shall be made for a time-horizon of 365 days for sight deposits, and for time until maturity for the term deposits.

Article 5

Concentration limit by bank deposit counterparty

1. For a deposit within a single credit institution to be included in the reserve of assets, such deposit shall respect the following thresholds:
 - (a) 25% or lower of the market value of the reserve of assets, where that credit institution is identified as either 'global systemically important institution' (G-SII) or other 'systemically important institution' (O-SII) in accordance with Article 131 of Directive 2013/36/EU;
 - (b) 15% or lower of the market value of the reserve of assets, where that credit institution is a large institution as defined in Article 4(1), point (146), of Regulation (EU) No 575/2013 but is not identified as G-SII or O-SII;
 - (c) 5% or lower of the market value of the reserve of assets, where that institution does not fall under (a) or (b) above.
2. For a deposit within a single credit institution to be included in the reserve of assets, such deposit shall not exceed 1.5% of the total assets of that credit institution.
3. The amount of the deposits in a credit institution referred to in paragraphs 1 and 2 together with the market value of highly liquid financial instruments in the form of securities or money market instruments issued or guaranteed by the same credit institution, and the risk exposure to that credit institution in unmarginated OTC derivatives, as envisaged in Article 38(1) of Regulation (EU) 2023/1114, shall not exceed 30% of the market value of the reserve of assets referred to the same tokens.
4. For the purposes of the limits envisaged in paragraphs 1, 2 and 3, the deposits with a credit institution, the highly liquid financial instruments in the form of securities or money market instruments issued or guaranteed by the same credit institution, and the risk exposures in unmarginated OTC derivatives with that credit institution shall include those deposits placed with, instruments issued by or exposures to all other entities with whom that credit institution has close links.

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

Article 6

Mandatory over-collateralisation

1. At any time t , the daily market value of the reserve of assets referred to the same tokens shall meet the following formula:

$$Reserve\_Assets_t \geq Assets\_Referenced_t \times \left(1 + \max_{s \in I} \left\{ 0; \frac{Assets\_Referenced_s - Reserve\_Assets_s}{Assets\_Referenced_s} \right\} \right),$$

where:

- $Reserve\_Assets_t$ is the market value at time t of the reserve of assets referred to the same tokens;
- $Assets\_Referenced_t$ is the market value at time t of the assets referenced by those tokens;
- I is any working day in the 5-year period before date t .

Article 7

Managing deviations from liquidity requirements

Without prejudice to Article 24 of Regulation (EU) 2023/1114, where an issuer of asset-referenced tokens, or an e-money institution issuing e-money tokens subject to this Regulation, does not meet all the requirements set out in this Regulation, or where that issuer or e-money institution, or the competent authority have evidence that such requirements are likely to be breached, the issuer or the e-money institution shall prepare a detailed plan, including following a request by the competent authority, and submit it to the authority within five working days.

Article 8

Entry into force

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

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

Done at Brussels,

APPENDIX 36: DRAFT RTS TO SPECIFY THE HIGHLY LIQUID FINANCIAL INSTRUMENTS WITH MINIMAL MARKET RISK, CREDIT RISK AND CONCENTRATION RISK UNDER ARTICLE 38(5) OF REGULATION (EU) 2023/1114

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

of XXX

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

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁶⁹, and in particular Article 38(5), fourth subparagraph, thereof,

Whereas:

- (1) For the purpose of allowing investment in highly liquid financial instruments having minimal market, credit and concentration risk, as envisaged in Article 38(1) of Regulation (EU) 2023/1114, level 1 liquid assets subject to 0% haircut according to Commission Delegated Regulation (EU) 2015/61 of 10 October 2014²⁷⁰ should be included as highly liquid financial instruments in the reserve of assets of a token issuer.
- (2) In the identification of the highly liquid financial instruments having minimal market, credit and concentration risk, it is necessary to take into account the following requirements set out in Regulation (EU) 2023/1114: (i) the required currency matching between the denomination of the reserve of assets and the assets-referenced by the tokens; (ii) a minimum required amount of 30% of deposits with credit institutions, denominated in the official currency referenced by tokens that are not significant; and (iii) the concentration limits by issuer referred to in the prudential framework applicable to undertakings for collective investment in transferable securities (UCITS). Based on these aspects, it is necessary to include level 1 liquid assets in the form of extremely high quality covered bonds as referred to in Delegated Regulation (EU) 2015/61 as highly liquid financial instruments, up to 35% of the value of the reserve of assets, so as to ensure that the requirements on highly liquid financial instruments can be met while ensuring that the market, credit and concentration risk of the reserve of assets remain low.
- (3) In the determination of the highly liquid financial instruments, it is necessary to take into account the expected higher volatility of the assets referenced by the tokens, when they are not referenced to official currencies. Therefore, in order to allow maintaining a higher correlation between the value of the assets referenced and the value of the reserve of assets, the specific financial instruments referenced by the tokens or derivatives relating to the assets referenced by the tokens should be included in the reserve of

²⁶⁹ OJ L 150, 9.6.2023, p. 40.

²⁷⁰ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

- assets as highly liquid financial instruments. This higher correlation is necessary to mitigate the potential mismatch in market and credit risk between the assets referenced and the reserve of assets.
- (4) As in the determination of the LCR liquidity buffer in accordance with Delegated Regulation (EU) 2015/61, an unwinding mechanism for secured funding, secured lending or collateral swap transactions should be envisaged for the determination of the amount of the reserve of assets.
 - (5) Overall, the general and operational eligibility requirements for liquid assets set out in Delegated Regulation (EU) 2015/61 should apply also for the highly liquid financial instruments in the reserve of assets. However, some exceptions should be envisaged to adapt the applicable framework to the specificities of the crypto-activity and to the specific requirements in Regulation (EU) 2023/1114. For example, the requirement that issuers of high quality liquid assets in Delegated Regulation (EU) 2015/61 have not to belong to the financial sector should not apply to issuers of highly liquid financial instruments. In addition, Regulation (EU) 2023/1114 requires the currency matching between the denomination of the reserve of assets and the denomination of the assets referenced by the tokens. Furthermore, some exemptions to the general and operational requirements applicable to some level 1 liquid assets subject to 0% haircut in accordance with Delegated Regulation (EU) 2015/61 should not be replicated in the framework applicable to highly liquid financial instruments, to take into account the quantitative limits set out in Regulation (EU) 2023/1114 to their inclusion in the reserve of assets.
 - (6) The market value of the highly liquid financial instruments should be calculated considering the cash-inflows and outflows that would derive from derivatives hedging not only their market risk, including interest rate risk or currency risk, but also the difference between the market value of the highly liquid financial instruments and the market value of the assets referenced. This is particularly relevant for the case of tokens that are not referenced to official currencies, which might be expected to be more volatile.
 - (7) As mandated by Regulation (EU) 2023/1114, specific concentration limits by issuer of highly liquid financial instruments should be provided, taking into account the prudential framework applicable to UCITS. Therefore, it is necessary to introduce a general 5% limit for securities and crypto-assets, a 35% limit for level 1 liquid assets with 0% haircut, as referred to in Delegated Regulation (EU) 2015/61, and a 10% limit in the cases of level 1 liquid assets consisting in extremely high quality covered bonds as referred to in that Delegated Regulation.
 - (8) The definition of the highly liquid financial instruments with minimal market risk, credit risk and concentration risk should also take into account the developments of the work in the BCBS framework to identify the eligible reserve assets for crypto-activities.
 - (9) Considering that requirements set out in Article 38 of Regulation (EU) 2023/1114 shall also apply to electronic money institutions issuing e-money tokens (either significant or, where decided, non-significant), as per Article 58(1), point (a), and (2) of that Regulation, this Regulation should also apply to those tokens that are subject to or required to comply with those requirements.
 - (10) There is a need to ensure, without prejudice to the withdrawal of the authorization in accordance with Article 24 Regulation (EU) 2023/1114, that, in cases of deviations from the requirements set out in this Regulation, including for reasons of the financial instruments ceasing to meet the conditions set out therein, a plan is promptly submitted to the competent authority.
 - (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.

(12) The European Banking Authority, in cooperation with the European Supervisory Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁷¹ and with the European Central Bank, has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,²⁷²

HAS ADOPTED THIS REGULATION:

Article 1

Definition of highly liquid financial instruments

1. Financial instruments shall be considered highly liquid financial instruments with minimal market risk, credit risk and concentration risk, where they meet all of the following conditions:

- (a) they comply with the general requirements laid down in Article 7 of Commission Delegated Regulation (EU) 2015/61;²⁷³
- (b) they comply with the operational requirements laid down in Article 8 of Delegated Regulation (EU) 2015/61;
- (c) they belong to one of the following categories of financial instruments:
 - (i) level 1 assets referred to in Article 10 of Delegated Regulation (EU) 2015/61 that are not subject to any haircut;
 - (ii) level 1 assets qualifying as exposures in the form of extremely high-quality covered bonds, as referred to in Article 10(1), point (f), of Delegated Regulation (EU) 2015/61, up to 35 % of the value of the reserve of assets;
 - (iii) for tokens not referencing official currencies, other financial instruments, provided these instruments are either assets, including commodities, referenced by the tokens or derivatives on the assets referenced by the tokens.

For the purposes of the first subparagraph, point (a), the provision in Article 7(7), point (aa), of Commission Delegated Regulation (EU) 2015/61 shall not apply.

For the purposes of the first subparagraph, point (b):

- (a) the operational requirements for credit institutions in Article 8 of Commission Delegated Regulation (EU) 2015/61 shall be read as referred to the issuers of the tokens;

²⁷¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

²⁷² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2020, p. 12).

²⁷³ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions Text with EEA relevance (OJ L 11, 17.1.2015, p. 1).

- (b) Article 8(1), second subparagraph, points (a)(iii) and (b), and Article 8(6) of Commission Delegated Regulation (EU) 2015/61 shall not apply;
- (c) Article 8(4), second subparagraph, of Commission Delegated Regulation (EU) 2015/61 shall not apply with respect to assets referred to in Article 10(1), points (c) to (e) and (g), of that Regulation.

For the purposes of the first subparagraph, point (c)(iii), and without prejudice to the second subparagraph, where crypto-assets qualifying as financial instruments as referred to in Article 2(4), point (a), of Regulation (EU) 2023/1114, are included in the reserve of assets:

- (a) all reference to credit institutions in Article 7(3) of Commission Delegated Regulation (EU) 2015/61 shall be read as referred to the issuers of the tokens that hold the reserve assets;
- (b) Article 7(4) of Commission Delegated Regulation (EU) 2015/61 shall not apply.

For the purposes of the first subparagraph, point (c)(iii), where financial instruments qualifying as derivatives are included in the reserve of assets:

- (a) subparagraph 1, points (a) and (b), shall not apply to those derivatives;
- (b) those derivatives shall be taken into account for the purposes of Article 2 of this Regulation.

2. For the purposes of calculating the market value of the reserve of assets, the haircuts set out in Articles 10 to 19 of Commission Delegated Regulation (EU) 2015/61 shall not apply.

Article 2

Hedging derivatives to highly liquid financial instruments

The net liquidity outflows and inflows that would ensue from an early close-out of the hedge, including from derivatives hedging the difference between the change of the market value of reserve assets and the change of the market value of the assets

referenced by the token, shall be taken into account in the valuation of the highly liquid financial instruments.

Article 3

Concentration limit by issuer of highly liquid financial instruments

1. The market value of highly liquid financial instruments with minimal market risk, credit risk and concentration risk issued or guaranteed by a single entity or by entities with close links shall not be higher than:
 - (a) 35% of the market value of the reserve of assets, in the case of securities or money market instruments that are not subject to any haircuts in accordance to Articles 10 to 19 of Commission Delegated Regulation (EU) 2015/61;
 - (b) 10% of the market value of the reserve of assets, in the case of extremely high-quality covered bonds as referred to in Article 10(1), point (f), of Commission Delegated Regulation (EU) 2015/61;

- (c) 5% of the market value of the reserve of assets, in the case of other securities, money market instruments or crypto-assets that qualify as financial instruments, as referred to in Article 2(4), point (a), of Regulation (EU) 2023/1114. This limit applies to the market value of units in undertakings for collective investment in transferable securities (UCITS) with a single management company or with management companies with close links.
2. The risk exposure to a counterparty in an OTC derivative transaction that is unmargined shall not exceed:
- (a) 10% of the market value of the reserve of assets, when the counterparty is a credit institution; or
- (b) 5% of the market value of the reserve of assets, in all other cases.
3. When applying paragraphs 1 and 2, issuers of tokens shall look through to the underlying exposures of collective investment undertakings (CIUs), as defined in Article 4(1), point (7), of Regulation (EU) No 575/2013, whose units are included in the reserve of assets.

Article 4

Unwind mechanism

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall apply the approach set out in paragraph 2 to all of the following:
- (a) the determination of the amount of the reserve of assets envisaged in Article 36(1) of Regulation (EU) 2023/1114;
- (b) the application of the percentages of the reserve of assets with maximum maturities established in **[Article 1 and Article 2 of the RTS to further specify the liquidity requirements of the reserve of assets under Article 36(4) of Regulation (EU) 2023/1114]**;
- (c) the application of the concentration limits by deposit counterparty established in **[Article 5 of the RTS to further specify the liquidity requirements of the reserve of assets under Article 36(4) of Regulation (EU) 2023/1114]**;
- (d) the application of the concentration limits by issuer of highly liquid financial instruments established in Article 3.

In the case of point (a), the approach set out in paragraph 2 shall apply without prejudice to the application of the operational requirements set out in Article 1(1), first subparagraph, point (b), and the 35 % cap to covered bonds referred to in Article 1(1), first subparagraph, point (c)(ii).

2. The issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall consider the impact on the reserve of assets of the termination of secured funding, secured lending or collateral swap transactions entered into using reserve assets on at least one leg of the transaction, where the transaction matures within five working days.

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

Article 5

Changes in characteristics of financial instruments

Where an issuer of asset-referenced tokens, or an e-money institution issuing e-money tokens subject to this Regulation, does not meet all the requirements set out in this Regulation, including for reasons relating to the financial instruments ceasing to fulfil the conditions set out therein, or where the issuer or the e-money institution, or the competent authority has evidence such requirements are likely to be breached, the issuer or the e-money institution shall, without prejudice to Article 24 of Regulation (EU) 2023/1114, prepare a detailed plan, including following a request by the competent authority, and submit it to the authority within five working days.

Article 6

Entry into force

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

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

Done at Brussels,

APPENDIX 37: DRAFT RTS TO SPECIFY THE MINIMUM CONTENTS OF THE LIQUIDITY MANAGEMENT POLICY AND PROCEDURES UNDER ARTICLE 45(7)(b) OF REGULATION (EU) 2023/1114

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

of XXX

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards for specifying the minimum contents of the liquidity management policy and procedures

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937²⁷⁴, and in particular Article 45(7) (b), fourth subparagraph, thereof,

Whereas:

- (1) The minimum content and procedures for identifying, measuring and managing liquidity risk of issuers of crypto-assets should be set out with the ultimate target to ensure that the value of their reserves of assets can meet any redemption request by token holders under normal or stress scenarios ensuring the normal continuity of the business. Issuers of crypto-assets should pay particular attention to the volatility of assets referenced relative to the reserve of assets and perform a subsequent analysis of the necessary overcollateralisation. Issuers of crypto-assets should avoid any concentration by custodian to mitigate any counterparty risk.
- (2) Issuers of crypto-assets should establish a contingency plan with early warning signals and mitigation tools. In particular, issuers of crypto-assets should monitor as an early warning signal the volatility of assets referenced relative to the reserve of assets and the evolution of any gap between the market value of the tokens and the market value of the assets referenced. This indicator is considered specially relevant for spotting potential massive redemptions requests, particularly in view of any potential underestimation of the market value of tokens in the market. Given that an overestimation of the market value of a token in the market might likely create the incentive to sell it, issuers should pay attention to transaction volumes and prices in order to be ready to react to any adverse evolution.
- (3) As a reserve of assets for one token is segregated from a reserve of assets from other tokens, the liquidity management policies related to each of them should be segregated as well.
- (4) A detailed description of the risks covered, the parameters identified and their calibration for the purposes of the liquidity stress testing established in Article 45(4) of Regulation (EU) 2023/1114, as well as the outcome of the exercise, should be envisaged in the liquidity management policy. The review of this information, that should be updated for each liquidity stress testing exercise, is expected to allow supervisors to decide on appropriate measures to strengthen the issuers' liquidity requirements if necessary.

²⁷⁴ OJ L 150, 9.6.2023, p. 40.

- (5) Considering that requirements set out in Article 45, points (1) to (4) of Regulation (EU) 2023/1114 also apply to issuers of e-money tokens issued by electronic money institutions (either significant or, where decided, non-significant), as per Article 58(1), point (a), and (2) of that Regulation, this Regulation should also apply to issuers of emoney tokens issued by electronic money institutions that are subject to or required to comply with those requirements.
- (6) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (7) The European Banking Authority, in close cooperation with the European Supervisory Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁷⁵, has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,²⁷⁶

HAS ADOPTED THIS REGULATION:

Article 1

Procedures for identifying, measuring and managing liquidity risk

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall have robust strategies, policies, processes and systems for the identification, measurement, management, monitoring and internal reporting of liquidity risk over an appropriate set of time horizons, so as to ensure that they maintain adequate levels of their reserve of assets. These strategies, policies, processes and systems shall ensure the issuer's normal continuity of operations by meeting any redemption request by holders of asset-referenced tokens and e-money tokens.
2. The strategies, policies, processes and systems referred to in paragraph 1 shall be proportionate to the complexity, risk profile, scope of operation of the issuers of asset-referenced tokens and/or, where applicable, e-money institutions issuing emoney tokens, and be approved by the issuers' management body, which shall set risk tolerance levels to each asset-referenced token or e-money token. The strategies, policies, processes and systems referred to in paragraph 1 shall reflect the issuers' current and expected liquidity risks which shall be monitored on an ongoing basis. This shall include the identification of deposits with credit institutions or of any other asset received in the issuance of the tokens and kept in the reserve of assets, and of the highly liquid financial instruments in which the reserve of assets can be invested in, the criteria to determine their market value, the assessment of concentration risk, creditworthiness and liquidity soundness, as well as their limits, time horizons, currencies' consistency and the techniques for ensuring the stability of the reserve of assets' value with respect to the referenced asset(s).
3. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall establish appropriate arrangements for a sound management of the intra-day liquidity risk. This shall include the identification of the expected intra-day liquidity needs and resources and the setting up of

²⁷⁵ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

²⁷⁶ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2020, p. 12).

process and procedures coherent with the profile of the issuer, the token and the contingent and expected market situation.

4. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall monitor their reserve assets to ensure that they are available to cover the value of assets referenced by the tokens at all times, in particular during emergency situations, and assess the appropriateness of overcollateralisation, especially where the assets referenced by the tokens are highly volatile or do not form part of the reserve of assets. The custody service provider, custody policies and related contractual arrangements shall be monitored at any time.

5. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall have in place specific measures and limits to avoid concentration of the reserve of assets by custodian.

6. Issuers of asset-referenced tokens not referencing official currencies shall establish adequate processes and procedures to address risks arising from cases in which the reserve of assets are not composed by the assets referenced. In particular, the issuers shall have sound and comprehensive arrangements for managing risks arising from the use of derivative instruments or instruments providing a synthetic replica of the referenced assets.

Article 2

Contingency policy and mitigation tools

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall develop and appropriately calibrate early warning signals, including maximum deviations between the market value of the reserve of assets and the market value of the assets referenced by the tokens, and between the market value of the tokens and the market value of the assets referenced by the tokens.

2. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall have in place and regularly review different liquidity risk mitigation tools, including adequate access to diversified funding sources, to react to any early warning signal, embracing normal and stress scenarios.

3. Issuers of asset-referenced tokens, and e-money institutions subject to this Regulation, shall adjust their strategies, early warning signals, internal policies and limits on liquidity risk, and develop effective contingency plans taking into account the outcome of the stress testing.

4. On the set-up of the liquidity contingency planning, issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall maintain the following policy documentation:

- (a) description of the lines of responsibilities for designing, approving, monitoring, executing and maintaining up to date the liquidity contingency plan;
- (b) description of the strategies for addressing liquidity shortfalls in emergency situations;
- (c) description of a tool, with internal limits, to monitor market conditions that allow issuers to determine, in a timely manner, whether, either escalation or execution of measures, or both of them, is warranted.

Article 3

Segregation of the liquidity management policy and procedures

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall apply Articles 1 and 2 separately for each asset-referenced or e-money token. The procedures for identifying, measuring, managing and reporting liquidity risk, the contingency policies and mitigation tools, the risk limits, the management tools and strategies shall be established, in content and form, taking into account the different asset referenced by the token and its correlation with the relevant segregated reserve of assets.
2. The liquidity management policy and procedures envisaged in this Regulation shall be separate, in content and form, from the liquidity policy related to other activities of the issuer other than those related to its issuing of crypto-assets.

Article 4

Liquidity stress testing

1. Issuers of asset-referenced tokens, and e-money institutions issuing e-money tokens subject to this Regulation, shall include in the liquidity management policy the process and procedures of the liquidity stress testing and an updated description of the following:
 - (a) risks covered in the liquidity stress testing;
 - (b) parameters considered and their calibration under stress, as well as the stress scenarios and time horizons used in the liquidity stress testing;
 - (c) historical data and assumptions, including any expert judgments, considered by the issuer in the calibration of the parameters mentioned in point (b);
 - (d) the outcome of the liquidity stress testing and remedies taken.
2. The liquidity stress testing shall include a reverse stress test element to assess the limit of resilience of the liquidity profile of each reserve of assets.

Article 5

Entry into force

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

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

Done at Brussels,

APPENDIX 38: ESMA GUIDELINES ON THE CONDITIONS AND CRITERIA FOR THE QUALIFICATION OF CRYPTO-ASSETS AS FINANCIAL INSTRUMENTS

(19/03/2025 - ESMA75453128700-1323)

1 Scope

Who?

1. The guidelines apply to competent authorities and to financial market participants, including issuers as defined in Article 3(1), point (10), offerors as defined in Article 3(1), point (13) of MiCA, crypto-asset service providers as defined in Article 3(1), point (15) of MiCA, investors and all persons engaging in activities relating to crypto-assets.

What?

2. These guidelines apply in relation to Article 2(5) of MiCA.

When?

3. These guidelines apply 60 calendar days from the date of their publication on ESMA's website in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

AIFMD	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 ²⁷⁷ .
DLTR	Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology ²⁷⁸ .
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ²⁷⁹ .
MiCA	Regulation (EU) 2023/1114 of the European Parliament and the Council of 31 May 2023 on markets in crypto-assets ²⁸⁰ .

²⁷⁷ OJ L 174, 1.7.2011, p. 1.

²⁷⁸ OJ L 151, 2.6.2022, p. 1.

²⁷⁹ OJ L 331, 15.12.2010, p. 84.

²⁸⁰ OJ L 150, 9.6.2023, p. 40.

MiFID II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) ²⁸¹ .
MMFR	Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds ²⁸² .
UCITSD	Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) ²⁸³ .

2.2 Abbreviations

AIF	Alternative investment fund
ART	Asset-referenced token
CASP	Crypto-asset service provider
DLT	Distributed ledger technology
EBA	European Banking Authority
EMT	Electronic money token
ESMA	European Securities and Markets Authority
ESAs	European Supervisory Authorities
F-NFT	Fractionalised NFT
ITS	Implementing technical standards
NCA	National competent authority
NFT	Non-Fungible Token
RTS	Regulatory technical standards

²⁸¹ OJ L 173, 12.6.2014, p. 349.

²⁸² OJ L 169, 30.6.2017, p. 8.

²⁸³ OJ L 302, 17.11.2009, p. 32.

2.3 Definitions

DLT	Distributed ledger technology (DLT) as defined in Article 3(1)(1) of MiCA.
NFT	Non-fungible tokens refer to crypto-assets that are unique and not fungible with other crypto-assets as mentioned in Article 2(3) of MiCA.
Hybrid tokens	Hybrid tokens refer to crypto-assets that encompass elements from diverse classifications, embodying a composite of characteristics typically associated with distinct types of crypto-assets.

3 Purpose

4. These guidelines are issued under Article 16(1) of the ESMA Regulation and Article 2(5) of MiCA. The purpose of these guidelines is to specify conditions and criteria for determining whether a crypto-asset should qualify as a financial instrument and therefore ensuring the common, uniform and consistent application of the provisions in Article 2(4)(a) of MiCA. Furthermore, these guidelines provide clarifications on certain features of utility tokens, NFTs and hybrid tokens.

5. These guidelines also contain examples for illustrative purposes. While these examples aim to provide clarity and aim at assisting both NCAs and financial market participants in their assessment, they should not substitute the performance of a complete assessment of whether a crypto-asset should qualify as a financial instrument and in that respect, they should not be interpreted as a definitive classification nor substitute or affect the necessary case-by-case analysis.

4 Compliance and reporting obligations

4.1 Status of the guidelines

6. In accordance with Article 16(3) of the ESMA Regulation, national competent authorities and financial market participants must make every effort to comply with these guidelines.

7. National competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

8. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, national competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

9. In case of non-compliance, national competent authorities should also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.

10. Financial market participants are not required to report.

5 Guidelines on the classification of crypto-assets as financial instruments

General – Guideline 1

11. The technological format of crypto-assets should not be considered a determining factor by national competent authorities and financial market participants when assessing the qualification as financial instruments. Following this, the process of tokenisation of financial instruments²⁸⁴ should not affect the classification of such assets.

12. Tokenised financial instruments should continue to be considered as financial instruments for all regulatory purposes. National competent authorities should take a technology-neutral approach, a principle referred to in MiCA, to ensure that similar activities and assets are subject to the same rules regardless of their form²⁸⁵.

5.1 Classification of crypto-assets as transferable securities

Classification as transferable securities – Guideline 2

13. National competent authorities and financial market participants should classify crypto-assets as transferable securities if they confer to their holders equivalent rights to those granted by shares, bonds, other forms of non-equity securities or other transferable securities as referred to in Article 4(1)(44) of MiFID II²⁸⁶.

14. A crypto-asset should qualify as a financial instrument if it falls within the definition of a transferable security provided by MiFID II²⁸⁷. In such case crypto-assets should be subject to the exact same rules as traditional financial instruments in line with the principle of technological neutrality. A substance over form approach should be adopted to determine if a crypto-asset qualifies as a financial instrument.

15. National competent authorities and financial market participants should thus consider that, a crypto-asset qualifies as transferable securities, when it cumulatively fulfils the following three criteria: (i) not being an instrument of payment; (ii) being "classes of securities"; and (iii) being negotiable on the capital market.

i. Exclusion of instruments of payment

²⁸⁴ That could be described as "the digital representation of financial instruments on distributed ledgers or the issuance of traditional asset classes in tokenised form to enable them to be issued, stored and transferred on a distributed ledger"; See Recital 3 of DLTR; see also "financial instrument means those instruments specified in Section C of Annex I, including such instruments issued by means of distributed ledger technology", Article 4(1)(15) of MiFID II.

²⁸⁵ Recital 9 of MiCA.

²⁸⁶ Article 4(1)(44) of MiFID II defines transferable securities, which "means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment" and include shares in companies, bonds and securitised debt, as well as "any other securities" giving: (i) a right to acquire or sell a transferable security; or (ii) "giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures". This may include options, warrants, and structured bonds where the interest is linked to any derivative (e.g. selected stock index, interest rate, other derivative or a combination of derivatives).

²⁸⁷ Article 4(1)(44) of MiFID II.

16. National competent authorities and financial market participants should note that if a cryptoasset conforms to the definition of an instrument of payment it should not be qualified as a transferable security²⁸⁸.

17. MiFID II does not provide any definition of "instruments of payment". A crypto-asset that would be qualified as such should be seen as a crypto-asset which is used as a medium of exchange²⁸⁹. If a crypto-asset were to have several components, including that of an instrument of payment, national competent authorities and financial market participants should conduct a case-by-case analysis to determine the most appropriate qualification for this crypto-asset.

ii. Classes of securities

18. National competent authorities and financial market participants should consider the following indicators to identify whether crypto-assets form a "class": (i) the crypto-assets are issued by the same issuer and (ii) the crypto-assets are interchangeable²⁹⁰, i.e. giving access to the same rights (e.g. dividend rights, voting rights on the issuer's decision-making process, right over a portion of company's assets or rights to liquidation proceeds). If all crypto-assets of the same issuance represent or confer the same rights and obligations and are therefore interchangeable, or if the issuance comprises clearly identifiable different classes of cryptoassets²⁹¹, the "class requirement" criterion should be considered to be met. National competent authorities and financial market participants should also note that the existence of multiple classes of crypto-assets within the same issuance should not per se affect their qualification as being part of a class of securities, provided each class maintains clearly defined and distinguishable rights and characteristics, as is common with traditional securities issuances.

19. An example of a token pertaining to a class is a scenario where tokens are interchangeable and grant holders equivalent voting rights and dividend entitlements. This interchangeability implies that each token is identical in rights and obligations for all holders. In such cases, national competent authorities and financial market participants may consider that these tokens meet the criteria for being part of a class.

20. After having assessed if the crypto-asset is part of a class, national competent authorities and financial market participants should assess if it is part of a class of securities. In this respect, they should consider that the classes of securities mentioned in points (a) to (c) of Article 4(1), point (44), of MiFID II are examples of securities that fall within the definition of transferable securities. To determine if a crypto-asset confers rights of securities, NCAs should evaluate whether the rights granted by the crypto-assets are equivalent to those typically granted by a specific type of transferable security.

21. To illustrate this, crypto-assets that would represent an ownership position in a company's capital and confer to their holders rights equivalent to the rights conferred by shares (e.g. stake in a company, right to vote

²⁸⁸ For more detail on the notion of instrument of payment, see EBA Guidelines on the limited network exclusion under PSD2, 24 February 2022, EBA/GL/2022/02 ; Noteworthy, while MiFID II does not provide such definition, NCAs which have a national definition of instruments of payment have transposed the definition contained in Article 4(14) of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market in their legislation ; see ESMA Advice Annex 1 Legal qualification of crypto-assets – survey to NCAs, p.11.

²⁸⁹ For instance, this notion usually includes liquid payment methods like cheques, bills of exchanges as well as non-cash payment tools including cards, bank transfers, direct debits, and electronic money.

²⁹⁰ The idea is to exclude crypto-assets that would be unique or that would have been customised for a particular investor (e.g. NFTs).

²⁹¹ Each class being interchangeable.

with respect to certain decisions of the company, rights of dividend, rights to the company's liquidation proceeds), should be qualified as securities that have features specific to shares²⁹².

22. An assessment should also be made between crypto-assets giving voting rights typically associated with shares (e.g. voting rights on the company's decision-making process) and those giving governance rights that are more linked to technical and/or operational decisions and which do not provide holders with any influence over corporate governance matters. For instance, crypto-assets granting voting rights on the company's decision-making process allowing holders to participate in corporate governance decisions (such as electing board members, approving mergers and acquisitions) should be considered as granting voting rights equivalent to shares. On the contrary, crypto-assets that would grant governance rights solely on technical matters and/or operational changes, such as protocol upgrades and fee adjustments, without giving holders any influence over corporate governance decisions, should not confer rights equivalent to shares and should be distinguished from securities that provide traditional shareholder powers.

23. An example is that of crypto-assets which are designed as utility tokens within a specific ecosystem such as tokens used to access services, providing holders with access to premium content on a video game platform or granting discounts on future purchases (e.g. reduced transaction fees or priority access to new products). In such case, if the tokens do not provide any financial returns comparable to financial instruments (e.g. dividends or interest payments) and are lacking the element of pertaining to a class of securities, then the tokens should not be qualified as transferable securities. This reasoning would apply even if such tokens were bought by investors with the expectation of profit due to their potential appreciation in value.

24. National competent authorities and financial market participants should further take into account that tokens tracking the performance of one or several underlying assets, which grant holders rights comparable to those of acquiring or selling transferable securities (such as the right to acquire shares, bonds or similar transferable securities) should be viewed as a strong indication of conferring rights equivalent to securities and could hence be qualified as transferable securities if they are part of a class and are negotiable. National competent authorities and financial market participants should also consider whether such tokens give rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities, or other indices or measures.

25. With reference to the class of "bonds or other forms of securitised debt"²⁹³, provided that these instruments are negotiable on the capital market, national competent authorities and financial market participants should note that crypto-assets that would represent a debt akin a monetary debt like a portion of a loan owed by the issuer to the crypto-asset holder should be considered as securities that have features specific to bonds. The same applies for a debt that would be incorporated into a security, excluding bonds or money market instruments.

26. As an example, national competent authorities and financial market participants may consider the case of a company that would issue crypto-assets that provide to their holders regular interest payments and/or promise the repayment of the principal at a future date. Such tokens should be considered as pertaining to a class of securities similar to bonds due to their debtrepresenting characteristics.

27. National competent authorities and financial market participants should take into account that such assets may also fall within the ambit of "other securities", as mentioned in MiFID II's Article 4(1), point (44), point (c),

²⁹² National competent authorities and financial market participants should take into account that the term "share" is not defined by the EU law. As a result, Member States interpret this concept differently; in some, shares may lack dividend or voting rights (such as preference shares) yet still qualify as shares.

²⁹³ Article 4(1)(44), point (b) of MiFID II.

which give rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities, or other indices or measures.

iii. Negotiability on the capital market

28. National competent authorities and financial market participants should determine if the crypto-asset is freely negotiable on the capital market²⁹⁴. National competent authorities and financial market participants should therefore consider that if inherent restrictions on transfer prevent a crypto-asset from being negotiated, it is not a transferable security.

29. A crypto-asset should be considered to be negotiable where it is capable of being transferred or traded freely²⁹⁵. The abstract possibility of being transferred or traded should be deemed sufficient, even if there is no specific market for the product or even if there is a temporary lock-up period. The negotiability requirement set out in Article 4(1), point (44), of MiFID II seems to be met by most crypto-assets, since the DLT makes the transfer of ownership from the seller to the buyer possible.

30. National competent authorities and financial market participants should also consider that a crypto-asset can be designed in a way that it does not allow for any transfer in capital markets. Some restrictions may be placed on negotiability by not allowing holders to negotiate and/or transfer crypto-assets to a person other than the issuer. In respect of any restrictions on the transfer of crypto-assets, these need to be considered on a case-by-case basis, as the nature and impact of the restriction could be sufficient to render the instrument non-tradable²⁹⁶. Similarly, national competent authorities and financial market participants should also take into account other restrictions that may exist and may not prevent a crypto-asset from being tradable (e.g. whitelist-only transfers, selling restrictions for a specified period of time, lockup, specific country limitation).

31. National competent authorities and financial market participants should broadly interpret the notion of capital market, including all contexts where buying and selling interests in securities meet, and simultaneously assess the differences between traditional venues and trading platforms for crypto-assets. Generally, capital markets are understood as trading venues where savings and investments are channelled between buyers which want to invest in an asset, and sellers which need capital against their assets. Consequently, if crypto-assets are capable of being traded on a trading platform equivalent to a MiFID trading platform, this should be a conclusive indication that they are negotiable on a capital market. The fact that a crypto-asset is traded on online trading platforms may serve as an indicator of their negotiability but does not necessarily coincide with the notion of capital market.

²⁹⁴ The reference to "capital markets" is not defined but as a concept is intentionally broad to include all contexts where buying and selling interests in securities meet. It does not limit the scope to securities listed or traded on regulated markets; See Q&As published by the Commission on MiFID Directive 2004/39/EC.

²⁹⁵ Transferable securities should only be considered "freely negotiable" if before admission to trading no restrictions exist which prevent the transfer of crypto-assets in a way that would disturb "creating a fair, orderly and efficient market" (see recital 1 to Delegated regulation (EU) 2017/568 of 24 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the admission of financial instruments to trading on regulated markets). Therefore, the fact that investors must be for instance whitelisted should not on its own prevent a crypto-asset to be qualified as a transferable security, to be assessed on a case-by-case basis, see paragraph 29.

²⁹⁶ Issuer-imposed restrictions may potentially limit the transferability of crypto-assets in various ways. Time-lock transfers may restrict the transfer of the asset for a specific period, preventing transactions before a set date or event. Geographical restrictions limit transfers to certain regions or jurisdictions, often to comply with local regulations. Technical restrictions, such as covenants, can be specific conditions encoded into the smart contract, which may require certain criteria to be met (e.g., holding periods, usage constraints) before transfers are allowed. In any case, such restrictions should be assessed on a case-by-case basis.

32. Therefore, national competent authorities and financial market participants should consider that the dependable criteria for classifying a crypto-asset as a transferable security might include: (i) transferability and interchangeability (negotiability and belonging to a class), and (ii) possession of rights akin to the rights of other securities. Drawing from the MiFID II definition of transferable securities, all aforementioned criteria need to be satisfied for cryptoassets to be categorised as a transferable security.

5.2 Classification as other types of financial instruments

Classification as money-market instruments – Guideline 3

33. To be classified as a money market instrument as defined in Article 4(1), point (17), of MiFID II, crypto-assets should be a class of instruments normally traded within the money market, with the exception of payment instruments.

34. National competent authorities and financial market participants should assess whether the crypto-assets possess characteristics similar to treasury bills, certificates of deposit, and commercial papers (e.g. represent a certificate of a credit balance). These instruments typically represent short-term negotiable debt obligations, issued by governments, credit institutions, or corporations to raise funds in the money market²⁹⁷. In particular, certificates of deposit are transferable instruments that constitute short-term debt obligations. Accordingly, such crypto-assets should embody similar features, including obligations to repay a credit balance, without confusing them with standard banking deposits under Directive 2014/49/EU. This distinction ensures that only instruments meeting the necessary criteria for money market instruments are treated as such.

35. National competent authorities and financial market participants should consider that moneymarket instruments are known for their short maturity periods²⁹⁸. To qualify as a money-market instrument under MiFID II, a crypto-asset should thus, among other things, exhibit a predefined or residual maturity or redemption date maturity as required for in MMFR. This criterion ensures alignment with the core characteristic of short-term nature that moneymarket instruments possess. Some platforms offer short-term savings accounts for cryptoassets which aim to maintain a stable value (crypto-assets pegged to stable assets like Euro or U.S. dollar). If these savings arrangements had a short maturity and provided returns to users, this might be seen as one feature analogous to traditional money-market instruments.

36. As an example, national competent authorities and financial market participants may consider a scenario where a company would issue a crypto-asset traded on a platform to provide shortterm loans to users, without being a payment instrument but a tradable token within the money market. It represents a certificate of credit balance, repayable by the borrowing party with interest at the end of a short period. Although the token's value is pegged to the Euro to maintain stability, the price of the token may fluctuate slightly to reflect the accrued interest over the loan period but may be accurately determined at any time. By meeting these criteria collectively, such crypto asset should, for those characteristics, be considered analogous to a short-term debt obligation used for financing and investment thus, where also other characteristics are met, should be considered as a money-market instruments.

Classification as units in collective investment undertakings – Guideline 4

²⁹⁷ "Money market instruments are transferable instruments normally dealt in on the money market and include treasury and local authority bills, certificates of deposits, commercial papers, bankers' acceptances, and medium- or short-term notes. Money market instruments should be eligible for investment by MMFs only insofar as they comply with maturity limits and are considered by an MMF to be of high credit quality" (see recital 21 of the Money Market Fund Regulation 2017/11/31/EU, MMFR).

²⁹⁸ For instance - even though not valid for all money market instruments - short maturity periods at issuance or residual of up to 397 days as mentioned in Article 3 of Commission Directive 2007/16/EC.

37. National competent authorities and financial market participants should consider that for a crypto-asset to be qualified as a unit in a collective investment undertaking (CIU) the project attached to the crypto-asset should involve collectively: (i) the pooling of capital from a number of investors; (ii) the purpose of investing this capital in accordance with a defined investment policy; and (iii) with a view to generating a pooled return for the benefit of those investors²⁹⁹. It should be noted that, to qualify as a collective investment undertaking, it does not matter whether participants contribute fiat currency, cash equivalent, or crypto-assets to the pool.

38. For example, a crypto-asset that would enable holders to (i) invest in digital investment funds, where holders are entitled to a proportional share of the returns generated by the managed portfolio, without any participation in the governance regarding investment strategies (e.g. no voting rights) and (ii) redeem their tokens for a share of the portfolio's value, should be considered as a unit in a collective investment undertaking.

39. National competent authorities and financial market participants should also consider whether token holders – as a collective group – have day-to-day discretion or control³⁰⁰ over operational matters relating to the daily management of the assets included in the pool. Where this is the case, the crypto-asset would likely not qualify as a collective investment undertaking. In this context, it is not relevant whether decisions are made by humans, code/algorithms, or smart contracts as long as those decisions are in strict adherence to the established investment policy.

40. For instance, a token received as part of a liquid staking service (i.e. where users delegate their tokens/governance rights attached to those tokens to a staking service provider) could be regarded as representing a share in the staking rewards generated by the pooled staked assets/governance rights. However, if there is no collective management by a third party following a predefined investment policy – such as users retaining day-to-day control over their staking tokens and can trade them freely³⁰¹ – such crypto-asset should not typically be considered by national competent authorities and financial market participants as a unit of a collective investment undertaking.

41. While some schemes may have diversification obligations, having a diversified portfolio is not a criterion for classification. Liquidity of the assets invested in or of the units issued by the undertaking is also not a criterion for the classification as a collective investment undertaking. For a crypto-asset to be classified as a unit in a collective investment undertaking, it should aim at providing investors with a pooled return, which is generated by the pooled risk arising from acquiring, holding or selling of the underlying investment assets. These criteria ensure that investors are entitled to a share of profits or losses as a result of their participation.

42. For a crypto-asset to be qualified as a unit or share of an alternative investment fund, it should be used to raise capital from a number of investors with a view to investing in accordance with a defined investment policy for the benefit of those investors³⁰². National competent authorities and financial market participants should carefully assess in particular whether the cryptoasset has a defined investment policy, taking into account the criteria set out in the ESMA Guidelines on key concept of the AIFMD³⁰³.

²⁹⁹ Guidelines on key concepts of the AIFMD, 13 August 2013, ESMA/2013/611, par. 12.

³⁰⁰ Ibid.

³⁰¹ "Freely" here refers to the ability to transfer or trade tokens without significant restrictions, excluding necessary operational requirements due to the use of distributed ledger technology (DLT), such as 24 to 48-hour locking period, which are common in liquid staking services.

³⁰² Without requiring an authorisation pursuant to Article 5 of UCITS Directive. See, article 4(1)(a)(ii) of AIFMD.

³⁰³ Section IV of ESMA/2013/611.

43. Another key aspect to take into account is the general commercial or industrial purpose of the crypto-assets project³⁰⁴. For the issuer of a crypto-asset to be classified as a collective investment undertaking, the purpose of the crypto-asset project should not be a general commercial or industrial purpose.

Classification as derivative contracts – Guideline 5

44. In relation to derivatives and crypto-assets, national competent authorities and financial market participants should distinguish two situations. The first situation, not envisaged by MiCA, is when crypto-assets serve as an underlying asset for derivatives. The second situation is when crypto-assets themselves can be qualified as derivatives.

45. In relation to the first situation, national competent authorities and financial market participants should consider the possibility for crypto-assets to be eligible underlying assets in derivative contracts. National competent authorities and financial market participants should ensure that their approach to evaluating such derivatives is aligned with the categories specified in Annex I Section C, points (4)-(10) of MiFID II.

46. For example, national competent authorities and financial market participants could consider the case of a crypto-asset designed as a prearranged sale agreement where one party agrees to buy a certain amount of specific crypto-assets at a future date for a predetermined price³⁰⁵. The rights attached to this crypto-asset would include the obligation to deliver the cryptoassets at the agreed date and price, regardless of the market price at that future date or to pay the difference between the agreed price and the market price. Depending on the circumstances, such a contract establishing a future commitment and deriving its value from the underlying cryptocurrency's price, could be considered as meeting the characteristics of a derivative contract.

47. National competent authorities and financial market participants should also consider the unique nature of perpetual futures, which are derivative instruments that do not have an expiration or settlement date. Unlike traditional futures contracts, perpetual futures are designed to provide continuous exposure to the underlying asset without requiring periodic rollovers. Despite their unique structure, perpetual futures should be treated as derivative contracts as they involve an agreement between parties to exchange the performance of an underlying asset over time, and their value is derived from the price movements of that asset. National competent authorities and financial market participants should thus ensure that tokenised perpetual futures are assessed against the criteria set out in Annex I Section C, points (4)-(10) of MiFID II, acknowledging their growing significance in the crypto-asset markets.

48. In relation to the second situation, regarding the conditions and criteria for crypto-assets to be qualified as derivative contracts, national competent authorities and financial market participants should as part of their assessment consider whether: (i) the rights of the cryptoasset holders are contingent upon a contract based on a future commitment (which can be either a forward, an option, a swap or a future), creating a time-lag between the conclusion and performance of the obligations under such contract; (ii) the crypto-asset's value is derived

³⁰⁴ Guidelines on key concepts of the AIFMD, 13 August 2013, ESMA/2013/611, p.29 and 31. The general commercial or industrial purpose notion can be defined as "the purpose of pursuing a business strategy which includes characteristics such as running predominantly i) a commercial activity, involving the purchase, sale, and/or exchange of goods or commodities and/or the supply of non-financial services, or ii) an industrial activity, involving the production of goods or construction of properties, or iii) a combination thereof."

³⁰⁵ Provided that such arrangements do not fall within the scope of primary market transactions or other pre-arranged sales that are not classified as derivatives under MiFID II.

from that of an underlying asset³⁰⁶ and (iii) follows the settlement modalities as referred to in Annex I Section C, points (4)-(10) of MiFID II.

49. National competent authorities and financial market participants should ascertain that the crypto-asset has an underlying reference point such as, rates, indexes, or instruments relevant in accordance with Annex I Section C, points (4)-(10) of MiFID II. To do so, national competent authorities and financial market participants should take into account the list of Annex I Section C, points (4)-(10) of MiFID II as well as all related level 2 texts³⁰⁷, and carefully analyse if the relevant crypto-asset includes the elements mentioned therein. The underlying is the basis for determining the value or payoff of the derivative. The value of the crypto-asset should also depend on changes in the value of the underlying reference asset. If a cryptoasset does not derive its value from specified underlying assets as defined in MiFID II, but exists as a standalone crypto-asset, it should be distinguished from a derivative contract.

50. National competent authorities and financial market participants should also consider, that when the value of a token is established through reserved assets, this token should be considered as an asset-reference token within the meaning of MiCA and not as a derivative. On the contrary, when the value or performance of the token is established by synthetically referencing another asset or right or a combination thereof, national competent authorities and financial market participants should analyse whether it should be qualified as a financial instrument.

51. An example could be a company that issues a crypto-asset aiming at reflecting the value of a share, bond or other type of financial instrument (performance and/or revenues generated). National competent authorities and financial market participants should consider whether these tokens confer an economic benefit directly correlated to a financial instrument (in a manner akin to that of a securitised equity swap) and should be considered as a derivative.

52. As another illustration, national competent authorities and financial market participants could consider a crypto-asset designed to track the performance of an index composed of emerging market crypto-assets. In this example, the primary characteristic of this crypto-asset is that it provides the holder with the returns of a specific index over a defined period. In a swap arrangement, two parties agree to "swap" the performance of this index, with counterparties respectively receiving or paying the index's performance at regular intervals. If the cryptoasset similarly represents an obligation to deliver the equivalent value of the index at a future date, it resembles a futures contract. In this example, the holder gains or loses depending on the index's value at the contract's maturity compared to the initial agreement. This setup establishing a time-lag between the contract's conclusion and execution, and for which the value of the crypto-asset depends on the niche index's performance, should be considered as meeting the characteristics of a derivative contract, provided that the other relevant elements referred to in MiFID II Annex I Section C, points (4)-(10) of MiFID II are present.

³⁰⁶ E.g. the underlying is commodity like gold, oil or gas; the token has link with securities, foreign exchange, rates, credit, or other financial underlying instruments; the trade involve actual European Emission Allowances or equivalents like Certified Emission Reductions; the token's link to climatic variables, freight rates, inflation rates, or other official economic statistics; whether the token representing a cash-settled arrangement based on the difference between open and closing trade prices, the token's design or use primarily for transferring credit risk.

³⁰⁷ See Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, (OJ L 87, 31.3.2017, p. 1). Financial market participants and competent authorities are invited to also consider Q&As and Guidelines as the ESMA Questions and Answers on MiFID II and MiFIR commodity derivatives topics, ESMA70-872942901-36, 23 September 2022; See also ESMA Guidelines on the application of C6 and C7 of Annex 1 of MiFID II, ESMA-70-156-869, 5 June 2019.

53. An example could also be drawn from a crypto-asset representing synthetic exposure to a basket of tokens. In this example, such crypto-asset mimics the performance of a basket of tokens without requiring direct ownership of the underlying assets. In a synthetic exchange-traded product setup, the holder gains from the combined performance of the basket, with the contractual terms specifying the exposure. The crypto-asset could typically be structured to provide returns based on specific performance metrics and maturity conditions, making it a structured financial instrument tailored to the performance of tokens. The synthetic exposure means the holder's returns depend on the future performance of the underlying tokens, involving a time-lag between the contract's initiation and the realisation of gains or losses. The value of the crypto-asset is directly tied to the combined performance of the basket of tokens. Furthermore, the terms of the synthetic exposure, including maturity and performance metrics, are defined. Consequently, such crypto-asset should be qualified as a derivative contract provided that the other relevant elements referred to in Annex I Section C, points (4)-(10) of MiFID II are present.

54. A crypto-asset's model where one party agrees to buy a certain amount of a crypto-asset from another party at a future date for a predetermined price should likely be seen as a forward/ future. Similarly, a crypto-asset that provides a right (but not the obligation) to buy or sell a specific crypto-asset (even a utility token) at a predetermined price within a certain timeframe should likely qualify as an option. A crypto-asset might also represent futures contracts for traditional commodities like gold or oil and hence be classified as a financial instrument where (in this case and in the previous cases) the conditions of the abovementioned points (4)-(10) of Annex I Section C, of MiFID II are met.

55. National competent authorities and financial market participants should carefully consider whether the form of settlement, whether in cash or through any crypto-assets, may affect the fundamental general classification of the product (i.e. between crypto-assets regulated under MiCA and financial instruments), if all other inherent characteristics and functions of derivative contracts in accordance with MiFID II are fulfilled by a product. Subject to the necessary case-by-case assessment, while the method of settlement is an important consideration, the general characteristics of the product are not likely to be inherently altered by the settlement medium.

Classification as emission allowances – Guideline 6

56. National competent authorities and financial market participants should consider that for a crypto-asset to be classified as an emission allowance, it should represent a right to emit a certain quantity of greenhouse gases and be recognised for compliance with the EU Emissions Trading Scheme. The crypto-asset's capability to be exchanged, managed and used like conventional emission allowances within existing carbon trading frameworks should also be assessed.

57. Crypto-assets that represent a verifiable emission allowance recognised for compliance with the requirements of Directive 2003/87/EC³⁰⁸ (or a set number of allowances) and that are tradeable, should fall under MiFID II's remit.

58. National competent authorities and financial market participants should take into account that crypto-assets should have to be recognised for compliance with the requirements of Directive 2003/87/EC. This means that for a crypto-asset to be classified as an emission allowance, it should ideally be tied to or represent such recognised units. A crypto-asset issuance that would not be recognised by a Member State and organised by the

³⁰⁸ According to Article 3(a) and (b) of Directive 2003/87/EC 'allowance' means an allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of this Directive and shall be transferable in accordance with the provisions of this Directive and 'emissions' means the release of greenhouse gases into the atmosphere from sources in an installation'.

European Commission could be qualified as a voluntary carbon credit and thus be out of the scope of the definition of a financial instrument.

59. In order to be considered as an emission allowance, the crypto-asset should confer a clear right regarding emissions, such as the right to emit a set quantity of greenhouse gases or serve as a recognized offset for such emissions. National competent authorities and financial market participants should consider in their assessment whether companies and organisations may use this crypto-asset to fulfil legal obligations related to carbon emissions reduction. The crypto-asset should also be tradable on third-party platforms or be capable of being traded.

60. It should be highlighted that emission allowances are fundamentally different from most crypto-assets currently on the market, which often represent a store of value, a stake in a project, or access to a service.

5.3 Background on the notion of crypto-assets

Classification as crypto-assets – Guideline 7

61. National competent authorities and financial market participants should take into account whether the crypto-asset is a digital representation of value or rights, capable of being transferred and stored using DLT, including whether these values or rights represent a right vis-à-vis the issuer and/or someone designated by the issuer. The nature of the crypto-asset's electronic transfer and storage should be taken into account considering the use of DLT or similar technologies.

62. National competent authorities and financial market participants should consider that although a utility token may be accompanied by governance rights (i.e. governance crypto-assets), it should not replicate the rights attached to financial instruments, starting with those attached to transferable securities within the meaning of MiFID II³⁰⁹. The same applies to crypto-assets accompanied by an expectation of profits. National competent authorities and financial market participants should therefore consider that such expectation of a future profit should not in itself be sufficient to qualify a crypto-asset as a financial instrument in accordance with MiFID II³¹⁰.

63. National competent authorities and financial market participants should consider that cryptoassets that are non-transferable to other holders and that are only accepted either by the issuer or by the offeror do not fall within the scope of MiCA³¹¹. The same applies to cryptoassets that are unique and not fungible with other crypto-asset³¹².

64. These guidelines are not intended to specify all types of crypto-assets that do not fall under the scope of MiCA and are listed in Article 2(4) of that Regulation. Nevertheless, an assessment of whether a crypto-asset qualifies as one or more of the instruments listed in Article 2(4) of MiCA and its similarity to financial instruments should be carried out by national competent authorities and financial market participants as part of their assessment.

³⁰⁹ Art. 4(1)(44) of MiFID II. In any case, as explained above, the classification as a financial instrument needs to be performed by assessing all the features/characteristics of the relevant financial instrument as referred to in MiFID II.

³¹⁰ In contrast to traditional shares, a utility token should give neither financial rights that would be related to a company's profits, capital, or liquidation surpluses - and thus representing an ownership position in a company's capital (e.g. unit of equity ownership in the capital stock of a corporation) - nor voting rights which would lead the investor to participate to the company's decision-making process (e.g. token giving the right to vote on matters of corporate policymaking).

³¹¹ See recital 17 of MiCA.

³¹² Article 2(3) of MiCA; See also recital 10 of MiCA.

Crypto-assets which are unique and not fungible with other crypto-assets (NFTs) – Guideline 8

65. National competent authorities and financial market participants should consider that, cryptoassets that are unique and not fungible with other crypto-assets are outside the scope of MiCA (e.g. digital art, collectibles, and tokens representing unique services or physical assets, such as product guarantees or real estate).

66. In addition, regardless of the exemptions under MiCA, if NFTs meet the criteria of financial instruments they will be subject to MiFID II and other relevant EU regulations. The same principle applies if NFTs qualify under other regulatory frameworks.

67. National competent authorities and financial market participants should consider that to be unique, NFTs should be considered non-substitutable. They should have clear distinct characteristics and/or rights compared to the other crypto-assets issued by the same (or any other) issuer. National competent authorities and financial market participants should not base the classification of a crypto-asset as unique and non-fungible solely on its technical specificities, such as the attribution of a unique identifier or the use of specific technical features and standards.

68. National competent authorities and financial market participants should base their assessment of whether an asset is unique and non-fungible on a range of relevant indicators attached to NFTs, such as (but not limited to): intrinsic value and rarity (e.g. whether the crypto-asset possesses unique attributes that contribute to its intrinsic value and rarity, making it distinct from other assets); utility and functionality (e.g. specific utility or functionality); ownership and rights (e.g. exclusive access or usage rights that are unique to the holder).

69. When evaluating the uniqueness of a crypto-asset, national competent authorities and financial market participants should also focus on the features that contribute to its distinct value. If a crypto-asset's valuation largely stems from its comparability to others with equivalent attributes, rendering them substitutable, it should not warrant an exemption under MiCA. Conversely, if NFTs derive their value from their unique characteristics or the specific utility they provide to the holder while they may be traded and speculated upon, they should not be seen as substitutable as their value cannot be easily compared to other assets.

70. For this purpose, an "interdependent value test" may be considered by national competent authorities and financial market participants as part of their assessment in order to classify a crypto-asset as unique and non-fungible considering: (i) if the value of the crypto-asset primarily stems from its unique characteristics and/or the utility/benefits it offers to its holder (e.g. a specific NFT tied to a limited edition digital artwork by a renowned artist); (ii) the extent to which the interconnection of various types of crypto-assets influences the value of one another in such a way that the NFT has no value of its own that would be decorrelated from the other NFTs in the series or collection (e.g. the existence of a common trading price for a series of tokens)³¹³; as well as (iii) the unique characteristics that distinguish these cryptoassets from others.

71. The assessment of uniqueness and fungibility in the context of MiCA should be considered independently of the asset's negotiability on secondary markets. The ability to trade a cryptoasset on such markets does not inherently affect its classification under MiCA as unique or non-unique.

72. National competent authorities and financial market participants should not automatically consider fractionalised NFT (F-NFTs) as unique and non-fungible³¹⁴. As part of their assessment, national competent authorities and financial market participants should take into account: whether the crypto-assets represent a partial ownership stake in a single unique and non-fungible token; if fractional parts, when considered separately, are deemed unique and non-fungible; whether these fractional parts share identical attributes or characteristics;

³¹³ Such interconnection may be exacerbated by the size of the series or collection which NFTs belong to.

³¹⁴ Ibid.

and the possibility of reconstructing complete ownership of the unique and non-fungible token by aggregating all its fractional components.

73. For instance, national competent authorities and financial market participants may consider an NFT collection where an NFT is fractionalised into hundreds of smaller tokens representing a part of the initial NFT picture. While the original NFT picture is unique, the fractionalised tokens might not individually meet the criteria of being unique and non-fungible. If all fractional parts can be recombined to restore full ownership of an original NFT, this may indicate that the fractional parts do not independently qualify as unique and non-fungible under MiCA.

Hybrid crypto-assets – Guideline 9

74. National competent authorities and financial market participants when determining whether a crypto-asset has hybrid characteristics should first evaluate if the crypto-asset meets the criteria of a financial instrument. If the hybrid token displays features of a financial instrument, such nature should take precedence in its classification³¹⁵. This assessment should be the primary focus before considering alternative classifications, such as utility tokens.

75. National competent authorities and financial market participants should prioritise assessing a crypto-asset's inherent attributes over the labels provided by issuers, especially for hybrid tokens whose functions or attributes might evolve during their life-cycle, to determine whether they seamlessly combine investment-driven functions (e.g. returns or capital appreciation), with utility-centric purposes (e.g. granting exclusive access to a service or digital platform).

76. National competent authorities and financial market participants should take into account whether the crypto-asset possesses a range of characteristics that complicate its classification (e.g. considering whether the crypto-asset fulfils multiple roles or combines various attributes, such as aspects of a financial instrument, payment, and utility; the extent to which the presence of these diverse characteristics and functions contributes to the cryptoasset's overall definition).

³¹⁵ This approach aligns with the wording of recital 9 of MiCA, which explicitly states that crypto-assets qualifying as financial instruments fall outside the scope of this regulation.

APPENDIX 39: ESMA GUIDELINES ON THE SPECIFICATION OF UNION STANDARDS FOR THE MAINTENANCE OF SYSTEMS AND SECURITY ACCESS PROTOCOLS FOR OFFERORS AND PERSONS SEEKING ADMISSION TO TRADING OF CRYPTO-ASSETS OTHER THAN ASSET REFERENCED TOKENS AND E-MONEY TOKEN

(26/02/2025 - ESMA75-223375936-6132)

1 Scope

Who?

- 1. These guidelines apply to competent authorities and to 'offerors' as defined in Article 3(1)(13) of MiCA and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens.

What?

- 2. These guidelines apply in relation to Article 14(1), point (d), of MiCA.

When?

- 3. These guidelines apply 60 calendar days from the date of their publication on ESMA's website in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC. ³¹⁶
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937. ³¹⁷
NIS2 Directive	Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No

³¹⁶ OJ L 331, 15.12.2010, p. 84

³¹⁷ OJ L 150, 9.6.2023, p. 40

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910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148.³¹⁸

DORA

Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on Digital Operational Resilience for the Financial Sector and Amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011.³¹⁹

2.2 Abbreviations

EC

European Commission

ESMA

European Securities and Markets Authority

EU

European Union

ART

Asset-referenced token(s)

EMT

E-money token(s)

2.3 Definitions

network and information system

means 'network and information system' as defined in Article 6, point (1) of NIS2 Directive.

ICT risk

means 'ICT risk' as defined in Article 3, point (5), of DORA.

ICT asset

means 'ICT asset' as defined in Article 3, point (7), of DORA.

access control

means controls to ensure that physical and logical access to ICT assets is authorised and restricted based on business and information security requirements.³²⁰

offerors and persons seeking admission to trading

refers to the shortened form of 'offerors and persons seeking admission to trading of crypto-assets other than assetreferenced tokens and e-money tokens', for the purposes of these guidelines.

3 Purpose

³¹⁸ OJ L 333, 12.12.2022, p. 80–133

³¹⁹ OJ L 333, 14.12.2022, p. 1–79.

³²⁰ ISO/IEC 29146:2016 Information technology — Security techniques — A framework for access management. International Organization for Standardization, 2016.

4. These guidelines, prepared in cooperation with the European Banking Authority, are based on Article 14(1), point (d), of MiCA. The purpose of these guidelines is to specify the appropriate Union standards for offerors and persons seeking admission to trading as regards the maintenance of systems and security access protocols, including policies and procedures. These guidelines also aim to promote greater convergence in the interpretation and application of the MiCA provisions applicable to offerors and persons seeking admission to trading.

4 Compliance and reporting obligations

4.1 Status of the guidelines

5. In accordance with Article 16 of the ESMA Regulation, competent authorities must make every effort to supervise the implementation of these guidelines and offerors or persons seeking admission to trading should make every effort to comply with them.
6. Competent authorities to which these guidelines apply should incorporate these guidelines into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at crypto-asset market participants in their jurisdictions. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

7. Within two months of the date of publication of the guidelines on ESMA's website in all official EU languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
8. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all official EU languages of their reasons for not complying with the guidelines.
9. A template for notification is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
10. Offerors and persons seeking admission to trading are not required to report whether they comply with these guidelines.

5 Guidelines specifying Union standards on the maintenance of systems and security access protocols for offerors and persons seeking admission to trading of crypto-assets other than asset referenced tokens and e-money tokens

5.1 Guideline 1: General principle on proportionality

11. Offerors and persons seeking admission to trading are expected to make every effort to comply with these guidelines in such a way that is proportionate to, and takes account of, the organisation's size, its overall risk profile, and the nature, scope, and complexity of its activities or operations.

5.2 Guideline 2: Administrative arrangements concerning systems and security access protocols

APPENDIX 39: ESMA GUIDELINES ON THE SPECIFICATION OF UNION STANDARDS FOR THE MAINTENANCE OF SYSTEMS AND SECURITY ACCESS PROTOCOLS FOR OFFERORS AND PERSONS SEEKING ADMISSION TO TRADING OF CRYPTO-ASSETS OTHER THAN ASSET REFERENCED TOKENS AND E-MONEY TOKEN

Administrative arrangements

12. The offeror or person seeking admission to trading should ensure an adequate internal governance and internal control framework is in place for the maintenance of their network and information systems and mitigation of ICT risks. The offeror or person seeking admission to trading should also set clear roles and responsibilities for functions with responsibility for ICT risk management.
13. The offeror or person seeking admission to trading should ensure that the skills of their staff and their budget resources are adequate to support ICT risk management arrangements, with particular reference to those staff responsible for maintenance of network and information systems and access controls, on an ongoing basis. Furthermore, the offeror or person seeking admission to trading should ensure that relevant staff members, including any key function holders, periodically receive appropriate training on ICT risks.
14. The management body of the offeror or person seeking admission to trading should have accountability for setting, approving and overseeing the implementation of the organisation's ICT risk management arrangements, including as it relates to their network and information systems and access controls.

Roles and responsibilities

15. The offeror or person seeking admission to trading should assign to staff within the organisation the responsibility for appropriately identifying, managing, and overseeing ICT risks. It should ensure that the staff in charge of managing ICT risk and security operations have appropriate arrangements in place to identify, monitor, assess, and report on those ICT risks.
16. The offeror or person seeking admission to trading should ensure that the staff responsible for managing the ICT risks associated with network and information systems and access controls is able to ensure that the identified ICT risks are monitored, assessed, and reported to the management body.
17. The offeror or person seeking admission to trading should define and assign key roles and responsibilities to establish arrangements to:
 - i. identify and assess the ICT risks, including those related to ICT services provided by third-party service providers, to which the organisation is exposed;
 - ii. define mitigation measures, including controls to mitigate ICT third party risks;
 - iii. monitor the effectiveness of the measures referred to in point ii. and take action to correct the measures, where necessary;
 - iv. report to the management body on ICT risks and mitigation measures;
 - v. identify and assess whether there are any ICT risks resulting from any major change in network and information systems or ICT services (including where provided by third parties), or after any significant operational or security incident;
 - vi. manage cryptographic keys through their whole lifecycle.

5.3 Guideline 3: Physical security access protocols

18. Offerors and persons seeking admission to trading should define, document, and implement physical security measures to protect their premises, data centres and sensitive areas from unauthorised access and

from environmental hazards. The offeror or person seeking admission to trading should keep a record of each entry to those premises that require authorisation to access.

19. Physical access to network and information systems should be permitted to only authorised individuals according to the need-to-know, least privilege principles and on an ad-hoc basis. Authorisation should be assigned in accordance with the authorised individual's tasks and responsibilities and limited to individuals who are appropriately trained and monitored. Physical access should be periodically reviewed and withdrawn when no longer required.
20. Adequate measures to protect from environmental hazards should be commensurate with the importance of the buildings and the criticality of the operations or network and information systems located in these buildings.

5.4 Guideline 4: Security access protocols for network and information systems

21. Logical access to network and information systems should be restricted to authorised individuals designated by the offeror or person seeking admission to trading. Authorisation should be assigned in accordance with the staff's tasks and responsibilities, and limited to individuals who are appropriately trained and whose access to the systems is monitored. Offerors and persons seeking admission to trading should institute controls that reliably restrict such access to network and information systems to those with a legitimate business requirement. Electronic access by applications to data and systems should be limited to the minimum that is required to provide the relevant service.
22. Offerors and persons seeking admission to trading should institute strong controls over privileged system access by strictly limiting and closely supervising staff with elevated system access entitlements. Controls such as role-based access, logging and reviewing of the network and information systems activities of privileged users, strong authentication, and monitoring for anomalies should be implemented. The offeror or person seeking admission to trading should manage access rights to information assets and their supporting systems on a need-to-know and least privilege basis. Logical access rights should be periodically reviewed and withdrawn when no longer required.
23. Access logs should be retained for a period commensurate with the criticality of the identified business functions, supporting processes and information assets, without prejudice to the retention requirements set out in EU and national law. Offerors and persons seeking admission to trading should use this information to facilitate identification and investigation of anomalous activities that have been detected in the provision of their services.
24. Remote administrative access to critical ICT assets should be granted only on a need-to-know and least privilege basis and only when strong authentication solutions are available.
25. The operation of products, tools and procedures related to access control processes should protect those access control processes from being compromised or circumvented. This includes enrolment, delivery, revocation and withdrawal of corresponding products, tools, and procedures.

5.5 Guideline 5: Cryptographic key management

26. The offeror or person seeking admission to trading should be responsible for cryptographic key management as part of the roles and responsibilities assigned to key staff for ICT risk. These staff of the offeror or persons seeking admission to trading should be responsible for managing cryptographic keys

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through their whole lifecycle, including, generating, renewing, storing, backing up, archiving, retrieving, transmitting, retiring, revoking and destroying keys.

27. Offerors and persons seeking admission to trading should identify and implement controls to protect cryptographic keys through their whole lifecycle against loss, unauthorised access, disclosure and modification.
28. Offerors and persons seeking admission to trading should develop and implement methods to replace the cryptographic keys in the case of lost, compromised or damaged keys.
29. Offerors and persons seeking admission to trading should create and maintain a register for all certificates and certificate storing devices for at least critical ICT assets. The register should be kept up-to-date.
30. Offerors and persons seeking admission to trading should ensure the prompt renewal of certificates in advance of their expiration.

APPENDIX 40: ESMA GUIDELINES ON SITUATIONS IN WHICH A THIRD-COUNTRY FIRM IS DEEMED TO SOLICIT CLIENTS ESTABLISHED OR SITUATED IN THE EU AND THE SUPERVISION PRACTICES TO DETECT AND PREVENT CIRCUMVENTION OF THE REVERSE SOLICITATION EXEMPTION UNDER THE MICA

(26/02/2025 - ESMA35-1872330276-2030)

1. Scope

Who?

- 1. These guidelines apply to competent authorities, as defined in Article 3(1)(35) of MiCA and, as regards Section 5, third-country firms.

What?

- 2. These guidelines apply in relation to Article 61 of MiCA.

When?

- 3. These guidelines apply 60 calendar days from the date of their publication on ESMA's website in all official EU languages.

2. Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC. ³²¹
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937. ³²²

2.2 Abbreviations

ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority

³²¹ OJ L 331, 15.12.2010, p. 84

³²² OJ L 150, 9.6.2023, p. 40

EU

European Union

2.3 Definitions

Third-country firm

A firm that would be subject to Article 59 of MiCA if its head office or registered office were located within the Union

3. Purpose

4. These guidelines are based on Article 61(3) of MiCA. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in Article 61 of MiCA.

5. In particular, they aim to promote greater convergence in the interpretation of, and supervisory approaches to, the situations in which a third-country firm is deemed to solicit clients established or situated in the Union. In addition, to foster convergence and promote consistent supervision in respect of the risk of abuse of Article 61 of MiCA, these guidelines also aim to promote certain supervision practices to detect and prevent circumvention of MiCA.

4. Compliance and reporting obligations

4.1 Status of the guidelines

6. In accordance with Article 16(3) of the ESMA Regulation, competent authorities should make every effort to comply with these guidelines.

7. Competent authorities to which these guidelines apply should incorporate them into their national legal and/or supervisory frameworks as appropriate.

4.2 Reporting requirements

8. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

9. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.

10. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.

5. Guidelines on the solicitation of clients by third-country firms

5.1 Means of solicitation (Guideline 1)

11. The solicitation of clients by third-country firms should be construed broadly and in a technology-neutral way.

12. Solicitation includes the promotion, advertisement or offer of crypto-asset services or activities to clients or prospective clients in the Union by any means. This may include, without limitation:

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- internet commercials,
- brochures,
- telephone calls,
- emails,
- banners, pop-ups and/or similar tools on websites and social media,
- face-to-face meetings,
- press releases,
- other forms of physical or electronic means, including websites, social media platforms, mobile applications,
- participations in road shows and trade fairs,
- invitations to events,
- affiliation campaigns,
- retargeting of advertising,
- invitations to fill in a response form or to follow a training course,
- messaging platforms,
- sponsorship deals.

13. Promotions, advertisements, marketing and offers of a general nature such as brand advertisements, and which are addressed to the public (with a broad and large reach), may also constitute solicitation.

14. NCAs should consider all the facts and circumstances of the case to assess whether a third-country firm is soliciting clients established or located in the Union.

15. Please refer to the Annex hereto for examples of circumstances where a third-country firm is likely to be regarded as soliciting clients in the Union.

16. ESMA acknowledges that there are circumstances where third-country firms might also be considered to be soliciting EU clients, though not exclusively³²³. In such cases, the third country firm may take precautionary measures to make sure that it does not breach the authorisation requirements under MiCA by refraining from providing any crypto-asset services or activities to EU clients. To do so, the third-country firm may, for instance,

³²³ For instance, a third-country firm may be sponsoring an international sporting competition in which Member States national teams or EU athletes may also be entering. MiCA does not prohibit such sponsorship deals. However, as a consequence of this, the firm should be considered to be soliciting clients in the EU and would thus be unable to benefit from the reverse solicitation exemption.

APPENDIX 40: ESMA GUIDELINES ON SITUATIONS IN WHICH A THIRD-COUNTRY FIRM IS DEEMED TO SOLICIT CLIENTS ESTABLISHED OR SITUATED IN THE EU AND THE SUPERVISION PRACTICES TO DETECT AND PREVENT CIRCUMVENTION OF THE REVERSE SOLICITATION EXEMPTION UNDER THE MICA

not accept any new EU clients' accounts or geo-block³²⁴ the means of access to its cryptoasset services or activities.

17. Educational materials, trainings, and industry events that are purely educational or focused on sharing knowledge about underlying technologies or innovations of the industry should not be considered solicitation. Educational materials, trainings, and industry events would be considered as having the effect to directly or indirectly promote the third-country firm or its crypto-asset services or activities when, for example, the audience is directed to the third-country firm's website, the means of access to the services offered by the third-country firm are given, brochures linked to the crypto-asset services are handed, the audience is invited to fill in a client profile or the services of the third country firm are, in any manner, otherwise promoted.

5.2 Person soliciting (Guideline 2)

18. Competent authorities should take into account that solicitation may occur irrespective of the person through whom it is performed.

19. The solicitation may be carried out by the third-country firm itself or any person acting on its behalf or having close links with the third-country firm³²⁵. A person acting on behalf of a third-country firm may be doing so either: i) expressly by virtue of a contract; or ii) implicitly via an informal agreement.

20. Such persons can include so-called influencers. Indications that a person is acting on behalf of a third country firm may include, for example, the direction of the audience to the third-country firm's website, the provision of the means of access to the services offered by the third-country firm, the offering of promotional deals or the displaying of the third-country firm's logo. The existence of any form of remuneration or benefit (monetary or non-monetary) provided by the third-country firm to the third party should be a strong indication that the third party is acting on behalf of the third-country firm. The lack of remuneration or benefit should, however, not necessarily exclude the fact that the person may be acting on behalf of the third country firm.

21. Own initiative reviews (i.e., as long as they are not performed on behalf of) of a thirdcountry firm's crypto-asset services or activities, on the other hand, should not be regarded as solicitation by or on behalf of the third-country firm. Such reviews, however, can only be considered as "own initiative" where the third-country firm does not have knowledge of the review and has not consented, encouraged or otherwise facilitated it.

22. The provision of crypto-asset services following solicitation on behalf of a third-country firm by a person or entity regulated in the EU should still be regarded as a breach of MiCA. For instance, an EU credit institution, investment firm or payment service provider should not redirect clients (for instance, via its website) to crypto-asset services provided by a third-country firm. This applies whether that third-country firm is part of the same group or not.

5.3 Exclusive initiative of the client (Guideline 3)

23. A firm should not be deemed to solicit clients, if the crypto-asset service or activity is provided at the own exclusive initiative of the client. The client's own exclusive initiative should be construed narrowly.

³²⁴ For instance, if access to the third-country firm's website is geoblocked to EU clients with an IP address originating in the EU and if the third-country firm's mobile application was not available for EU countries in mobile applications stores.

³²⁵ As defined in Article 3(31) of MiCA.

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24. The assessment of whether a crypto-asset service provider solicited a client or whether the contact was exclusively initiated by the client should be a factual one. Contractual arrangements or disclaimers cannot supersede contrary facts.

25. The reverse solicitation exemption is based on the premise that the crypto-asset product, service or activity is provided at the client's own exclusive initiative. Article 61(2) of MiCA leaves open the possibility for the third-country firm to market to that client crypto-assets or crypto-asset services or activities of the same type. However, the requirement that the crypto-asset services be provided on the basis of the own exclusive initiative of the client still applies.

26. As such, the time of the request from the client and of the offering, promotion or advertisement of other crypto-asset services or activities of the same type matters. The said provision should thus be construed as not permitting third-country firms to offer the client further crypto-assets or crypto-asset services or activities, even if such services or activities are of the same type as the one(s) originally requested by the client, unless they are offered in the context of the original transaction.

27. For instance, if the client contacts the third-country firm to buy crypto-asset X, the firm may – at this point in time – market to the clients crypto-assets of the same type. However, the third-country firm would not be entitled to market further crypto-asset X transactions or transactions in similar crypto-assets to the client a month later.

28. Third-country firms should be able to provide records tracking the relationship with the client and, in particular, whether the client has taken the initiative to receive crypto asset services with respect to a new product.

5.4 When is a crypto-asset or a crypto-asset service of the same type as another one (Guideline 4)

29. The reverse solicitation regime leaves open the possibility for a third-country firm to market crypto-assets or crypto-asset services or activities of the same type in the context of the relationship started at the own exclusive initiative of a given client, subject to the third-country firm also complying with Guideline 3 above.

30. Where the third-country firm wants to use such possibility, it should assess whether crypto-assets or crypto-asset services or activities belong to the same type on a case-by-case basis, taking into account elements such as (i) the category of the crypto-asset or crypto-asset service or activity offered and (ii) the risks attached to each crypto-asset or crypto-asset service or activity.

31. The categorisation of crypto-assets and crypto-asset services or activities a third-country firm uses should be granular enough to ensure that the reverse solicitation exemption cannot be used to circumvent the authorisation requirements under Article 59 of MiCA.

32. Below is a non-exhaustive list of pairs of crypto-assets which should not be considered as belonging to the same type of crypto-assets for the purpose of the reverse solicitation exemption:

- utility tokens, asset-referenced tokens or electronic money tokens;
- crypto-assets not stored or transferred using the same technology;
- electronic money tokens not referencing the same official currency;
- asset-referenced tokens based mostly on FIAT currencies and asset-referenced tokens having significant crypto-currency ponderations;

- liquid and illiquid crypto-assets;
- crypto-assets other than asset-reference tokens and electronic money tokens with a non-identifiable-offeror and crypto-assets other than asset-reference tokens and electronic money tokens with an identifiable offeror.

33. Please note that the examples above should not be read a contrario. For instance, electronic money tokens not referencing the same official currency do not belong to the same type. But the fact that two electronic money tokens are referencing the same official currency does not necessarily imply that they are of the same type. Similarly, cryptoassets not stored or transferred using the same technology do not belong to the same type. But crypto-assets stored or transferred using the same technology are not necessarily of the same type.

6 Guidelines on the supervision practices to detect and prevent the circumvention of the reverse solicitation exemption

34. Third-country firms may try to circumvent the authorisation requirements under Article 59 of MiCA by various means and practices. It is therefore paramount that competent authorities closely monitor the activity, if any, of third-country firms in their respective jurisdictions. Given that crypto-asset services are almost exclusively offered and promoted online, particular emphasis should be given to the online activities of thirdcountry firms.

35. Competent authorities should use one or more of the supervision practices detailed in the guidelines below.

6.1 Monitoring entities targeting clients established or situated in the Union or active in the Union (Guideline 1)

36. Competent authorities may search for third-country firms with telephone numbers starting with local country codes or mailing, email or website addresses indicating or hinting at their presence, at least virtual, in the Union (e.g., URL ending with "lu", "de", "fr", etc.).

37. Competent authorities may also conduct consumer surveys to identify the firms used by consumers in their jurisdiction for crypto-asset services.

38. Competent authorities may use marketing monitoring tools, especially those with the ability to monitor social media activity as they may give an indication of the geographic markets targeted by third-country firms.

6.2 Exchanges with other authorities (Guideline 2)

39. Competent authorities may work closely with other authorities (national authorities or foreign authorities) that might have insight into whether third-country firms are offering services in the relevant market. Such authorities may include the police and local tax authorities.

6.3 Reacting to client complaints or whistle-blowers (Guideline 3)

40. Competent authorities should follow up on complaints from clients or information from whistle-blowers indicating that a third-country firm might have been soliciting clients in its jurisdiction.

Annex – Non-exhaustive list of examples of circumstances where a third-country firm is likely to be regarded as soliciting clients in the Union

The examples of circumstances mentioned in the table should be read together with the relevant Guidelines.

Guideline	Description
Guideline 1	A third-country firm is using regional- or country-specific search engine optimisation (SEO) strategies to optimise its online presence and rank well in the search engine results pages (SERPs) of EU potential clients or SERPs of potential clients of certain Member States. The objective of SEO is to improve a website's ranking in (non-paid) search engine results. Successful SEO leads to increased web traffic and brand exposure. Regional or country-based SEO allows a third-country firm to appear in a higher position in the SERPs of EU potential clients. Regional- or country-specific SEO may include, for example: i) using a country-code top-level domain (TLD) in the domain name (such as ".fr", ".es", ".at"); ii) using a generic TLD (such as ".com" or ".org") with EU country-specific subdirectories (such as ".com/fr", ".org/es") in the domain name; iii) using a generic TLD but set geographic targeting when setting criteria in SEO tools; iv) using geo-targeted link building⁶ as part of its marketing strategy to build traffic from EU-based potential clients (for instance, a third-country firm uses backlinks on websites with an EU country-specific TLD or subdirectory).
Guideline 1	A third-country firm is using geo-targeting strategies for running digital ads, be it on SERPs or social media platforms, that target EU potential clients or potential clients of certain Member States.
Guideline 1	A third-country firm has a website or part of a website in an official language of the Union – which is not customary in the sphere of international finance – (or integrated translation tools in its website) and there is no indication that such third-country firm originates from a jurisdiction using the same language or that the third-country firm has a clientele or is targeting potential clients in a non-EU jurisdiction also using the same language.
Guideline 1	A third-country firm is sponsoring an EU- or Member State-centric sporting event such as a national championship, or a European championship.

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Guideline 1	A third-country firm is redirecting EU potential clients to its website by including a link to such website on training or educational material.
Guideline 1	A crypto group (including both EU regulated entities and third-country firms) is using strategies which insufficiently allow the client to differentiate between the offering of the EU regulated entities and third-country firms.
Guideline 1	A third-country firm is responding to an EU-based enquiry about non-MiCA regulated services or activities and uses its responses to market its cryptoasset services or activities.
Guideline 2	A third-country firm is using the website of an EU affiliate or EU firm – be it regulated or not - to display its logo, a backlink to its website or promote its crypto-asset services or activities.
Guideline 2	A third-country firm is using an EU-based influencer or content creator, and remunerating them, to push their crypto-assets or crypto-assets services or activities, or build their profile, on social media or otherwise.
Guideline 2	An EU-regulated crypto-asset service provider redirects EU clients that intend to trade in unauthorised asset-referenced token to the non-EU trading platform or broker of its group.
Guideline 3	A third-country firm is contacted by an EU client that wishes to buy a cryptoasset. The EU client installs the third-country firm's mobile application on its mobile phone to trade such crypto-asset. Two days after the initial transaction, the EU client receives a push notification encouraging them to go back to the third-country firm's mobile application to consult what crypto-assets are trending, including crypto-asset that are not of the same type as the one initially traded by the EU client.
Guideline 3	A third-country firm is contacted by an EU client that wishes to buy a cryptoasset. The EU client installs the third-country firm's mobile application on its mobile phone to trade such crypto-asset. Two months after the initial transaction, the EU client receives a push notification encouraging them to go back to the third-country firm's mobile application to return to the application and take action by trading more (for instance, a push notification about a temporary promotion).
Guideline 4	A third-country firm is contacted by an EU client that wishes to buy an assetreferenced token issued by an issuer that is not authorised in accordance with Title III of MiCA. At the time of providing the relevant crypto-asset service(s), the third-country firm also markets or offers a widely different type of cryptoasset, for instance, meme coins to the EU client.

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Guideline 4	A third-country firm is contacted by an EU client that wishes to buy an assetreferenced token authorised in the EU under Title III of MiCA. At the time of providing the relevant crypto-asset service(s), the third-country firm also markets or offers "meme coins" to the EU client.
Guideline 4	A third-country firm is approached by an EU-based individual for the provision of a specific crypto-asset service. In response, the third-country firm offers this individual a package of bundled crypto-asset services.

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(26 March 2025 - ESMA35-1872330276-2031)

1 Scope

Who?

1. These guidelines apply to competent authorities and crypto-asset service providers, as defined in Article 3(1)(15) of MiCA, where they provide, as relevant, advice on cryptoassets or portfolio management of crypto-assets.

What?

2. These guidelines apply in relation to:
 - (i) the suitability requirements under Article 81(1), (7), (8), (10), (11) and (12) of MiCA; and
 - (ii) the requirements applicable to the format of the periodic statement to be provided by CASPs providing portfolio management of crypto-assets, in accordance with Article 81(14) of MiCA.

When?

3. These guidelines apply 60 calendar days from the date of their publication on ESMA's website in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC. ³²⁶
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937. ³²⁷

2.2 Abbreviations

³²⁶ OJ L 331, 15.12.2010, p. 84

³²⁷ OJ L 150, 9.6.2023, p. 40

ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority
EU	European Union

2.3 Definitions

<i>Suitability assessment</i>	The whole process of collecting information about a client and the subsequent assessment by the crypto-asset service provider that a given crypto-asset is suitable for him, based also on the crypto-asset service provider's solid understanding of the crypto-assets that it can recommend or invest into on behalf of the client.
<i>Robo-advice</i>	The provision of advice on crypto-assets or portfolio management of crypto-assets (in whole or in part) through an automated or semi-automated system used as a client-facing tool.

3 Purpose

- These guidelines are based on Article 81(15) of MiCA and Article 16(1) of the ESMA Regulation. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in 81(1), (7), (8), (10), (11), (12) and (14) of MiCA, as relevant.
- In particular, they aim to promote greater convergence in the application of, and supervisory approaches to, the MiCA suitability requirements and requirements applicable to the format of the periodic statement to be provided by crypto-asset service providers providing portfolio management of crypto-assets.
- By identifying a number of important issues as set out in the guidelines below and thereby helping to ensure that crypto-asset service providers comply with regulatory standards, ESMA anticipates a corresponding strengthening of investor protection.

4 Compliance and reporting obligations

4.1 Status of the guidelines

- In accordance with Article 16(3) of the ESMA Regulation, competent authorities and financial market participants must make every effort to comply with these guidelines.
- Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

- Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i)

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comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

10. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.
11. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
12. Financial market participants are not required to report whether they comply with these guidelines.

5 Guidelines on certain aspects of the suitability requirements under MiCA

5.1 Information to clients about the purpose of the suitability assessment and its scope (Guideline 1)

Relevant legislation: Articles 66(1) and (2) and 81(1), (8), (10) and (11) of MiCA.

13. Crypto-asset service providers should inform their clients clearly and simply about the suitability assessment and its purpose which is to enable the crypto-asset service provider to act in the client's best interest. This should include a clear explanation that it is the crypto-asset service provider's responsibility to conduct the assessment, so that clients understand (i) the reason why they are asked to provide certain information, (ii) the importance that such information is up-to-date, accurate and complete and (iii) that, without such information, the crypto-asset service provider will not recommend cryptoasset services or crypto-assets, nor begin the provision of portfolio management of crypto-assets. Such information may be provided in a standardised format.
14. Information about the suitability assessment should help clients understand the purpose of the requirements. It should encourage them to provide up-to-date, accurate and sufficient information about their knowledge, experience, investment objectives (including their risk tolerance) and financial situation (including their ability to bear losses). Crypto-asset service providers should highlight to their clients that it is important to gather complete and accurate information so that the crypto-asset service provider can recommend suitable crypto-assets or crypto-asset services to the client. Without this information, crypto-asset service providers cannot provide advice on crypto-assets or portfolio management of crypto-assets.
15. It is up to the crypto-asset service provider to decide how they will inform their clients about the suitability assessment. The format used should however enable controls to check if the information was provided.
16. Crypto-asset service providers should not create any ambiguity or confusion about their responsibilities in the process when assessing the suitability of crypto-asset services or crypto-assets. Notably, crypto-asset service provider should avoid stating, or giving the impression, that it is the client who decides on the suitability of the investment or the service, or that it is the client who establishes which crypto-assets or crypto-asset services fit his own risk profile. For example, crypto-asset service providers should avoid indicating to the client that a certain crypto-asset is the one that the client chose as being suitable, or requiring the client to confirm that a crypto-asset or crypto-asset service is suitable.
17. Any disclaimers (or other similar types of statements) aimed at limiting the crypto-asset service provider's responsibility for the suitability assessment would not in any way impact the characterisation of the crypto-asset service provided in practice to clients nor the assessment of the crypto-asset service provider's compliance to the corresponding requirements. For example, when collecting clients' information required to conduct a suitability assessment (such as their investment horizon/holding period or information related to risk tolerance), crypto-asset service providers should not claim that they do not assess the suitability.

18. In order to address potential gaps in clients' understanding of the crypto-asset services provided through robo-advice, crypto-asset service providers should inform clients, in addition to other required information, on the following:
- a very clear explanation of the exact degree and extent of human involvement and if and how the client can ask for human interaction;
 - an explanation that the answers clients provide will have a direct impact in determining the suitability of the investment decisions recommended or undertaken on their behalf;
 - a description of the sources of information used to generate an investment advice or to provide the portfolio management service (e.g., if an online questionnaire is used, crypto-asset service providers should explain that the responses to the questionnaire may be the sole basis for the robo-advice or whether the cryptoasset service provider has access to other client information or accounts);
 - an explanation of how and when the client's information will be updated with regard to his/her situation, personal circumstances, etc. 19. Crypto-asset service providers should also carefully consider whether their disclosures are designed to be effective (e.g., the disclosures are made available directly to clients and are not hidden or incomprehensible). For crypto-asset service providers providing robo-advice this may in particular include:
 - emphasising the relevant information (e.g., through the use of design features such as pop-up boxes);
 - considering whether some information should be accompanied by interactive text (e.g., through the use of design features such as tooltips) or other means to provide additional details to clients who are seeking further information (e.g., through F.A.Q. section).

5.2 Arrangements necessary to understand clients (Guideline 2)

Relevant legislation: Article 81(1), (8) and (10) of MiCA.

20. Where collecting the information necessary to conduct a suitability assessment for each client, crypto-asset service providers should ensure that the questions they ask their clients are specific enough, are likely to be understood correctly, take into account the elements developed in guideline 3 and that any method used to collect information is designed to get the information required for a suitability assessment.
21. Crypto-asset service providers should ensure that the assessment of information collected about their clients is done in a consistent way irrespective of the means used to collect such information.
22. For example, crypto-asset service providers could use questionnaires (notably in a digital format) completed by their clients, information collected during discussions with them or other information already gathered through the crypto-asset service provider's existing relationship with the client. For instance, a payment default on other obligations may indicate a difficult financial situation.
23. When designing the questionnaires aiming at collecting information about their clients for the purpose of a suitability assessment, crypto-asset service providers should be aware and consider the most common reasons why clients could fail to answer questionnaires correctly. In particular:
- attention should be given to the clarity, exhaustiveness and comprehensibility of the questionnaire, avoiding misleading, confusing, imprecise and excessively technical language;

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- the layout should be carefully elaborated and should avoid orienting clients' choices (font, line spacing...);
 - presenting questions in batteries (collecting information on a series of items through a single question, particularly when assessing knowledge and experience and the risk tolerance) should be avoided;
 - crypto-asset service providers should carefully consider the order in which they ask questions in order to collect information in an effective manner.
 - in order to be able to ensure necessary information is collected, the possibility not to reply should generally not be available in questionnaires (particularly when collecting information on the client's financial situation).
24. Crypto-asset service providers should also take reasonable steps to assess the client's understanding of investment risk as well as the relationship between risk and return on investments, as this is key to enable crypto-asset service providers to act in accordance with the client's best interest when conducting the suitability assessment. When presenting questions in this regard, crypto-asset service providers should explain clearly and simply that the purpose of answering them is to help assess clients' attitude to risk (risk profile), and therefore whether crypto-assets services or the crypto-assets are suitable for them (and, if suitable, which types and risks are attached to them).
25. Information necessary to conduct a suitability assessment includes different elements that may affect, for example, the analysis of the client's financial situation (including his ability to bear losses) or investment objectives (including his risk tolerance). Examples of such elements are the client's:
- marital status (especially the client's legal capacity to commit assets that may belong also to his partner);
 - family situation (changes in the family situation of a client may impact his financial situation e.g. a new child or a child of an age to start university);
 - age (which is mostly important to ensure a correct assessment of the investment objectives, and in particular the level of financial risk that the client is willing to take, as well as the holding period/investment horizon, which indicates the willingness to hold an investment for a certain period of time);
 - employment situation (the degree of job security or the fact that the client is close to retirement may impact his financial situation or his investment objectives);
 - need for liquidity in certain relevant investments or need to fund a future financial commitment (e.g. property purchase, education fees).
26. When determining what information is necessary, crypto-asset service providers should keep in mind the impact that any significant change regarding that information could have concerning the suitability assessment.
27. ESMA considers it would be a good practice for crypto-asset service providers to consider non-financial elements when gathering information on the client's investment objectives, and – beyond the elements listed in paragraph 25 – collect information on the client's preferences on environmental, social and governance factors in order to take them into account into the suitability assessment.
28. Crypto-asset service providers should take all reasonable steps to sufficiently assess the understanding by their clients of the main characteristics and the risks related to the product types in the offer of the crypto-

asset service provider. The adoption by cryptoasset service providers of mechanisms to avoid unduly relying on client's selfassessment and ensure the consistency of the answers provided by the client³²⁸ is particularly important for the correct assessment of the client's knowledge and experience. Information collected by crypto-asset service providers about a client's knowledge and experience should be considered altogether for the overall appraisal of his understanding of the products and services and of the risks involved in the transactions recommended or in the management of his portfolio.

29. It is also important that crypto-asset service providers appraise the client's understanding of basic financial notions such as investment risk (including concentration risk) and riskreturn trade off. To this end, crypto-asset service providers should consider using indicative, comprehensible examples of the levels of loss/return that may arise depending on the level of risk taken and should assess the client's response to such scenarios.
30. As part of the assessment of a client's knowledge and experience, crypto-asset service providers should ensure that the client understands crypto-assets specifically and, in particular, the risks inherent to the use of distributed ledger technology (for instance, cybertheft, hacks, loss or destruction of private keys), on which crypto-assets are based.
31. Crypto-asset service providers should design their questionnaires so that they are able to gather the necessary information about their client. This is particularly relevant for crypto-asset service providers providing robo-advice services given the limited human interaction. In order to ensure their compliance with the requirements concerning that assessment, crypto-asset service providers should take into account factors such as:
 - whether the information collected through the online questionnaire allows the crypto-asset service provider to conclude that the advice provided is suitable for their clients on the basis of their knowledge and experience, their financial situation and their investment objectives and needs;
 - whether the questions in the questionnaire are sufficiently clear and/or whether the questionnaire is designed to provide additional clarification or examples to clients when necessary (e.g., through the use of design features, such as tool-tips or popup boxes);
 - whether some human interaction (including remote interaction via emails or mobile phones) is available to clients when responding to the online questionnaire;
 - whether steps have been taken to address inconsistent client responses (such as incorporating in the questionnaire design features to alert clients when their responses appear internally inconsistent and suggest them to reconsider such responses; or implementing systems to automatically flag apparently inconsistent information provided by a client for review or follow-up by the crypto-asset service provider).

5.3 Extent of information to be collected from clients (proportionality) (Guideline 3)

Relevant legislation: Article 81(1), (8) and (10) of MiCA

32. Before providing advice on crypto-assets or portfolio management of crypto-assets, crypto-asset service providers need to collect all 'necessary information'³²⁹ about the client's knowledge and experience,

³²⁸ See guideline 4.

³²⁹ 'Necessary information' should be understood as meaning the information that crypto-asset service providers must collect to comply with the suitability requirements under MiCA.

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financial situation, investment objectives and their basic understanding of the risks involved in purchasing crypto-assets, giving due consideration to the nature and extent of the service provided. The extent of 'necessary' information may vary and crypto-asset service providers should determine the extent of the information to be collected from clients in light of all the features of the advice on crypto-assets or portfolio management of crypto-assets to be provided to those clients. Notably, crypto-asset service providers should take into account the features of the advice on crypto-assets or portfolio management of crypto-assets to be provided, the type and characteristics of the crypto-assets to be considered and the characteristics of the clients.

33. In determining what information is 'necessary', crypto-asset service providers should consider, in relation to a client's knowledge and experience, financial situation, investment objectives and their basic understanding of the risks involved in purchasing crypto-assets:
- the type of crypto-assets or transactions or services that the crypto-asset service provider may recommend or enter into (including the complexity and level of risk);
 - the nature and extent of the service that the crypto-asset service provider may provide;
 - the needs and circumstances of the client;
 - the features of the client (e.g., their level of sophistication, knowledge of investing (including in relation to crypto-assets), financial situation...).
34. Crypto-asset service providers should ensure that the information regarding a client's or potential client's knowledge and experience in investing, including in the crypto-asset field, includes the following, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of crypto-asset or transaction envisaged, including their complexity and the risks involved:
- the types of service, transaction and financial products with which the client is familiar;
 - whether the client understands distributed ledger technology, on which cryptoassets are based, and the risks inherent to it such as the risk to transfer cryptoassets to the wrong wallet or address or the risks of hacking;
 - the nature, volume, and frequency of the client's transactions, including in cryptoassets, and the period over which they have been carried out;
 - the level of education, and profession or relevant former profession of the client or potential client.
35. When assessing a client's knowledge of crypto-assets or a particular type of cryptoassets, crypto-asset service providers should not solely rely on such client's transaction history but should ensure the client's understanding of the product.
36. While the extent of the information to be collected may vary, the standard for ensuring that a recommendation or an investment made on the client's behalf is suitable for the client will always remain the same. MiCA allows crypto-asset service providers to collect the level of information that is adequate for and proportionate to the products and services they offer, or on which the client requests specific advice on crypto-assets or portfolio management of crypto-assets. It does not allow crypto-asset service providers to lower the level of protection due to clients.

37. The information regarding the investment objectives of the client or potential client should include, where relevant, information on the length of time for which the client wishes to hold the investment, his or her preferences regarding risk taking, his or her risk profile, and the purposes of the investment.
38. When providing access to more complex or risky crypto-assets, crypto-asset service providers should collect more in-depth information about the client than they would collect when less complex or risky products are at stake. This is so that crypto-asset service providers can assess the client's capacity to understand, and financially bear, the risks associated with crypto-assets.³³⁰ ESMA expects crypto-asset service providers to carry out a robust assessment amongst others of the client's knowledge and experience, including, for example, the ability to understand the mechanisms which make the crypto-asset recommended or traded "risky" and, possibly, "complex", whether the client has already traded in crypto-assets and the specific type of crypto-assets (for example, a stablecoin or a utility token), the length of time he has been trading them for, etc.
39. For illiquid crypto-assets³³¹, the 'necessary information' to be gathered should include information on the length of time for which the client is prepared to hold the investment.
40. As information about a client's financial situation will always need to be collected, the extent of information to be collected may depend on the type of crypto-assets and services to be recommended or entered into. For example, as many crypto-assets are highly speculative investments, 'necessary information' to be collected may include all of the following elements as necessary to ensure whether the client's financial situation allows him to invest or be invested in such crypto-assets:
- the extent of the client's regular income and total income, whether the income is earned on a permanent or temporary basis, and the source of this income (for example, from employment, retirement income, investment income, rental yields, etc.);
 - the client's assets, including liquid assets, investments and real property, which would include what financial investments, personal and investment property, pension funds and any cash deposits, etc. the client may have. The crypto-asset service provider should, where relevant, also gather information about conditions, terms, access, loans, guarantees and other restrictions, if applicable, to the above assets that may exist.
 - the client's regular financial commitments, which would include what financial commitments the client has made or is planning to make (client's debits, total amount of indebtedness and other periodic commitments, etc.).
41. In determining the information to be collected, crypto-asset service providers should also take into account the nature of the service to be provided. Practically, this means that:
- when advice on crypto-assets is to be provided, crypto-asset service providers should collect sufficient information in order to be able to assess the ability of the client to understand the risks and nature of

³³⁰ To ensure clients understand the investment risk and potential losses they may bear, the crypto-asset service provider should, as far as possible, present these risks in a clear and understandable way, potentially using illustrative examples of the extent of losses in the event of a crypto-asset performing poorly, and with due consideration of Article 81(9) of MiCA.

³³¹ It is up to each crypto-asset service provider to define a priori which of the crypto-assets included in its offer to investors it considers as being illiquid.

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each of the crypto-assets and services that the crypto-asset service provider envisages recommending to that client;

- when portfolio management of crypto-assets is to be provided, as investment decisions are to be made by the crypto-asset service provider on behalf of the client, the level of knowledge and experience needed by the client with regard to all the crypto-assets that can potentially make up the portfolio may be less detailed than the level that the client should have when an advice on crypto-assets service is to be provided. Nevertheless, even in such situations, the client should at least understand the overall risks of the portfolio (including the risks inherent to distributed ledger technology) and possess a general understanding of the risks linked to each type of crypto-assets that can be included in the portfolio. Cryptoasset service providers should gain a very clear understanding and knowledge of the degree of understanding of crypto-assets and of the investment profile of the client.
42. Similarly, the extent of the service requested by the client may also impact the level of detail of information collected about the client. For example, crypto-asset service providers should collect more information about clients asking for advice covering their entire financial portfolio than about clients asking for specific advice on how to invest a given amount of money that represents a relatively small part of their overall portfolio.
43. Crypto-asset service providers should also take into account the nature of the client when determining the information to be collected. For example, more in-depth information would usually need to be collected for potentially vulnerable clients (such as older clients could be) or inexperienced ones asking for advice on crypto-assets or portfolio management of crypto-asset services for the first time.
44. Information to be collected will also depend on the needs and circumstances of the client. For example, a crypto-asset service provider is likely to need more detailed information about the client's financial situation where the client's investment objectives are multiple and/or long-term, than when the client seeks a short-term investment.
45. Information about a client's financial situation includes information regarding his or her investments (in crypto-assets and other products). This implies that crypto-asset service providers are expected to possess information about the client's financial investments he holds with the crypto-asset service provider on a crypto-asset by crypto-asset basis. Depending on the scope of advice provided, crypto-asset service providers should also encourage clients to disclose details on investments they hold with other crypto-asset service providers or financial investments they hold with financial institutions, if possible also on a product-by-product basis.

5.4 Reliability of client information (Guideline 4)

Relevant legislation: Article 81(1) and (10) of MiCA.

46. Clients are expected to provide correct, up-to-date and complete information necessary for the suitability assessment. However, crypto-asset service providers should take all reasonable steps and have appropriate tools to ensure that the information collected about their clients is reliable, accurate and consistent, without unduly relying on clients' self-assessment. This should include, without limitation:
- ensuring clients are aware of the importance of providing accurate and up-to-date information;
 - ensuring all tools, such as risk assessment profiling tools or tools to assess a client's knowledge and experience, employed in the suitability assessment process are fit-for-purpose and are appropriately

designed for use with their clients, with any limitations identified and actively mitigated through the suitability assessment process;

- ensuring questions used in the process are likely to be understood by clients, capture an accurate reflection of the client's objectives and needs, and the information necessary to understand the suitability assessment; and
- taking steps, as appropriate, to ensure the consistency of client information, such as by considering whether there are obvious inaccuracies in the information provided by clients.

47. Crypto-asset service providers remain responsible for ensuring they have the necessary information to conduct a suitability assessment. In this respect, any agreement signed by the client, or disclosure made by the crypto-asset service provider, that would aim at limiting the responsibility of the crypto-asset service provider with regard to the suitability assessment, would not be considered compliant with the relevant requirements in MiCA.

48. To avoid unduly relying on client's self-assessment, any auto-evaluation should be counterbalanced by factual information gathered on the basis of objective criteria. For example:

- instead of asking whether a client understands the notions of risk-return trade-off and risk diversification, the crypto-asset service provider should present some practical examples of situations that may occur in practice, for example by means of graphs or through positive and negative scenarios which are based on reasonable assumptions;
- instead of asking whether a client has sufficient knowledge about the main characteristics and risks of specific types of crypto-assets, the crypto-asset service provider should for instance ask questions aimed at assessing the client's real knowledge about the specific types of crypto-assets, for example by asking the client multiple choice questions to which the client should provide the right answer;
- instead of asking a client whether he feels sufficiently experienced to invest in certain crypto-assets, the crypto-asset service provider should ask the client what types of crypto-assets the client is familiar with and how recent and frequent his trading experience with them is;
- instead of asking whether clients believe they have sufficient funds to invest, the crypto-asset service provider should ask clients to provide factual information about their financial situation, e.g. the regular source of income and whether outstanding liabilities exist (such as bank loans or other debts, which may significantly impact the assessment of the client's ability to financially bear any risks and losses related to the investment);
- instead of asking whether a client feels comfortable with taking risk, the cryptoasset service provider should ask what level of loss over a given time period the client would be willing to accept, either on the individual investment or on the overall portfolio.

49. In assessing a client's knowledge and experience, a crypto-asset service provider should also avoid using overly broad questions with a yes/no type of answer and or a very broad tick-the-box self-assessment approach (for example, crypto-asset service providers should avoid submitting a list of crypto-assets to the client and asking him/her to indicate which s/he understands). Where crypto-asset service providers pre-fill answers based on the client's transactions history with that crypto-asset service provider (e.g., through another crypto-asset service provided), they should ensure that only fully objective, pertinent, and reliable information is used and that the client is given the opportunity to review and, if necessary, correct and/or

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complete each of the pre-filled answers to ensure the accuracy of any pre-populated information. Crypto-asset service providers should also refrain from predicting clients' experience based on assumptions.

50. A client's prior investments in crypto-assets should not be sufficient in itself for the cryptoasset service provider to conclude that such client understands crypto-assets and cryptoasset services (especially the risks associated with crypto-assets).
51. When assessing the risk tolerance of their clients through a questionnaire, crypto-asset service providers should not only investigate the desirable risk-return characteristics of future investments but they should also take into account the client's risk perception. To this end, whilst self-assessment for the risk tolerance should be avoided, explicit questions on the clients' personal choices in case of risk uncertainty could be presented. Furthermore, crypto-asset service providers could for example make use of graphs, specific percentages or concrete figures when asking the client how he would react when the value of his portfolio decreases.
52. Where crypto-asset service providers rely on tools to be used by clients as part of the suitability process (such as questionnaires or risk-profiling software), they should ensure that they have appropriate systems and controls to ensure that the tools are fit for purpose and produce satisfactory results. For example, risk-profiling software could include some controls of coherence of the replies provided by clients in order to highlight contradictions between different pieces of information collected.
53. Crypto-asset service providers should also take reasonable steps to mitigate potential risks associated with the use of such tools. For example, potential risks may arise if clients were encouraged to provide certain answers in order to get access to cryptoassets or crypto-asset services that may not be suitable for them (without correctly reflecting the clients' real circumstances and needs).³³²
54. In order to ensure the consistency of client information, crypto-asset service providers should view the information collected as a whole. Crypto-asset service providers should be alert to any relevant contradictions between different pieces of information collected, and contact the client in order to resolve any material potential inconsistencies or inaccuracies. Examples of such contradictions are clients who have little knowledge or experience and an aggressive attitude to risk, or who have a prudent risk profile and ambitious investment objectives.
55. Crypto-asset service providers should adopt mechanisms to address the risk that clients may tend to overestimate their knowledge and experience, for example by including questions that would help crypto-asset service providers assess the overall clients' understanding about the characteristics and the risks of crypto-assets in general and the different types of crypto-assets. Such measures may be particularly important in the case of robo-advice, since the risk of overestimation by clients may result higher when they provide information through an automated (or semi-automated) system, especially in situations where very limited or no human interaction at all between clients and the crypto-asset service provider's employees is foreseen.

5.5 Updating client information (Guideline 5)

Relevant legislation: Article 81(1), (8), (10) and (12) of MiCA.

56. Where a crypto-asset service provider has an ongoing relationship with the client (such as by providing ongoing advice on crypto-assets or portfolio management of cryptoassets), in order to be able to perform

³³² In this regard, see also paragraph 59 of guideline 5, which addresses the risk of clients being influenced by crypto-asset service providers to change answers previously provided by them, without there being any real modification in their situation.

the suitability assessment, crypto-asset service providers should adopt procedures defining: (a) what part of the client information collected should be subject to updating and at which frequency; (b) how the updating should be done and what action should be undertaken by the crypto-asset service provider when additional or updated information is received or when the client fails to provide the information requested.

57. Crypto-asset service providers should regularly review client information to ensure that it does not become manifestly out of date, inaccurate or incomplete. To this end, cryptoasset service providers should implement procedures to encourage clients to update the information originally provided where significant changes occur.
58. Frequency of update might vary depending on, for example, clients' risk profiles and taking into account the type of crypto-asset recommended. Based on the information collected about a client under the suitability requirements, a crypto-asset service provider will determine the client's risk profile, i.e. what type of crypto-asset services or cryptoassets can in general be suitable for him taking into account his knowledge and experience, his financial situation (including his ability to bear losses) and his investment objectives (including his risk tolerance). For example, a risk profile giving to the client access to a wider range of riskier products is an element that is likely to require more frequent updating. Certain events might also trigger an updating process; this could be so, for example, for clients reaching the age of retirement or facing unemployment.
59. Due to the requirement to review the suitability assessment at least every two years (in accordance with Article 81(12) of MiCA), updates should occur at least every two years to ensure that the updated suitability assessment is not based on outdated client's information. This also implies that the update should be done prior to any new suitability assessment occurring on the two-year deadline.
60. Updating could, for example, be carried out by sending an updating questionnaire to clients. Relevant actions might include changing the client's profile based on the updated information collected.
61. It is also important that crypto-asset service providers adopt measures to mitigate the risk of inducing the client to update his own profile so as to make appear as suitable a certain investment product or service that would otherwise be unsuitable for him, without there being a real modification in the client's situation.³³³ As an example of a good practice to address this type of risk, crypto-asset service providers could adopt procedures to verify, before or after transactions are made, whether a client's profile has been updated too frequently or only after a short period from last modification (especially if this change has occurred in the immediate days preceding a recommended investment). Such situations would therefore be escalated or reported to the relevant control function. These policies and procedures are particularly important in situations where there is a heightened risk that the interest of the crypto-asset service provider may come into conflict with the best interests of its clients, e.g. in situations in which the crypto-asset service provider is placing crypto-assets with its own clients. Another relevant factor to consider in this context is also the type of interaction that occurs with the client (e.g. telephone conversation vs through an automated system).
62. Crypto-asset service providers should inform the client when the additional information provided results in a change of his profile, whether it becomes more risky (and therefore, potentially, a wider range of riskier and more complex crypto-assets may as a result be suitable for him, with the potential to incur in higher losses) or vice-versa more conservative (and therefore, potentially, a more restricted range of crypto-assets may as a result be suitable for him).

³³³ Also relevant in this context are measures adopted to ensure the reliability of clients' information as detailed under guideline 4, paragraph 46.

5.6 Client information for legal entities or groups (Guideline 6)

Relevant legislation: Article 81(1), (8) and (10) of MiCA.

63. Where a client is a legal person or a group of two or more natural persons or where one or more natural persons are represented by another natural person, the crypto-asset service provider should establish and implement a policy, on an ex-ante basis, on the procedure and criteria that should be followed in order to comply with the MiCA suitability requirements in such situations. This includes (i) who should be subject to the suitability assessment, (ii) how the suitability assessment should be done in practice, including from whom information about knowledge and experience, financial situation and investment objectives should be collected and (iii) the possible impact this could have for the relevant clients, in accordance with the existing policy.
64. Where a client is a legal person or a natural person represented by another natural person, the financial situation and investment objectives should be assessed in light of those of the underlying client (the legal person or the natural person that is being represented) rather than of the representative. The knowledge and experience to be assessed should be that of the representative. This would imply amongst others that they verify that the representative is indeed – according to relevant national law – authorised to carry out transactions on behalf of the client.
65. Crypto-asset service providers should consider whether the applicable national legal framework provides specific indications that should be taken into account for the purpose of conducting the suitability assessment (this could be the case, for instance, where the appointment of a legal representative is required by law: e.g. for underage or incapacitated persons or for a legal person).
66. The policy should make a clear distinction between situations where a representative is foreseen under applicable national law, as it can be the case for example for legal persons, and situations where no representative is foreseen, and it should focus on these latter situations. Where the policy foresees agreements between clients, they should be made aware clearly and in written form about the effects that such agreements may have regarding the protection of their respective interests. Steps taken by the crypto-asset service provider in accordance with its policy should be appropriately documented to enable ex-post controls.
67. Where the client is a group of two or more natural persons and no representative is foreseen under applicable national law, the crypto-asset service provider's policy should identify from whom necessary information will be collected and how the suitability assessment will be done. Clients should be properly informed about the crypto-asset service provider's approach (as decided in its policy) and the impact of this approach on the way the suitability assessment is done in practice.
68. Approaches such as the following could possibly be considered by crypto-asset service providers: (a) they could choose to invite the group of two or more natural persons to designate a representative; or, (b) they could consider collecting information about each individual client and assessing the suitability for each individual client.

Inviting the group of two or more natural persons to designate a representative

69. If the group of two or more natural persons agrees to designate a representative, the same approach as the one described in paragraph 64 above could be followed: the knowledge and experience shall be that of the representative, while the financial situation and the investment objectives would be those of the underlying client(s). Such designation should be made in written form as well as according to and in compliance with the applicable national law, and recorded by the relevant crypto-asset service provider. The clients - part of

the group - should be clearly informed, in written form, about the impact that an agreement amongst clients could have on the protection of their respective interests.

70. The crypto-asset service provider's policy could however require the underlying client(s) to agree on their investment objectives.
71. If the parties involved have difficulties in deciding the person/s from whom the information on knowledge and experience should be collected, the basis on which the financial situation should be determined for the purpose of the suitability assessment or on defining their investment objectives, the crypto-asset service provider should adopt the most prudent approach by taking into account, accordingly, the information on the person with the least knowledge and experience, the weakest financial situation or the most conservative investment objectives. Alternatively, the crypto-asset service provider's policy may also specify that it will not be able to provide advice on crypto-assets or portfolio management of crypto-assets in such a situation. Crypto-asset service providers should at least be prudent whenever there is a significant difference in the level of knowledge and experience or in the financial situation of the different clients part of the group.

Collecting information about each individual client and assessing the suitability for each individual client

72. When a crypto-asset service provider decides to collect information and assess suitability for each individual client part of the group, if there are significant differences between the characteristics of those individual clients (for example, if the crypto-asset service provider would classify them under different investment profiles), the question arises about how to ensure the consistency of the advice on crypto-assets or portfolio management of crypto-assets provided with regard to the crypto-assets or portfolio of that group of clients. In such a situation, a crypto-asset may be suitable for one client part of the group but not for another one. The crypto-asset service provider's policy should clearly specify how it will deal with such situations. Here again, the crypto-asset service provider should adopt the most prudent approach by taking into account the information on the client part of the group with the least knowledge and experience, the weakest financial situation or the most conservative investment objectives. Alternatively, the crypto-asset service provider's policy may also specify that it will not be able to provide advice on crypto-assets or portfolio management of crypto-assets in such a situation. In this context, it should be noted that collecting information on all the clients part of the group and considering, for the purposes of the assessment, an average profile of the level of knowledge and competence of all of them, would unlikely be compliant with the MiCA overarching principle of acting in the clients' best interests.

5.7 Arrangements necessary to understand crypto-assets (Guideline 7)

Relevant legislation: Article 81(10) of MiCA.

73. Crypto-asset service providers should have adequate policies and procedures in place to ensure that they understand the characteristics, nature, features, including costs and risks of crypto-asset services and crypto-assets selected for their clients and that they assess, while taking into account cost and complexity, whether equivalent crypto-asset services or crypto-assets can meet their client's profile.
74. Crypto-asset service providers should adopt robust and objective procedures, methodologies and tools that allow them to appropriately consider the different characteristics and relevant risk factors (such as credit

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risk, market risk, liquidity risk³³⁴, operational risk including hacking risk, etc.) of each crypto-asset they may recommend or invest in on behalf of clients. Considering the level of 'complexity' of products is particularly important, and this should be matched with a client's information (in particular regarding their knowledge and experience).

75. Crypto-asset service providers should adopt procedures to ensure that the information used to understand and correctly classify crypto-assets included in their product offer is reliable, accurate, consistent and up-to-date. When adopting such procedures, cryptoasset service providers should take into account the different characteristics and nature of the crypto-assets considered.
76. In addition, crypto-asset service providers should review the information used so as to be able to reflect any relevant changes that may impact the product's classification. This is particularly important, taking into account the continuing evolution and growing speed of crypto-asset markets.

5.8 Arrangements necessary to ensure the suitability of cryptoassets or crypto-asset services (Guideline 8)

Relevant legislation: Article 81(1), (10), (11) and (12) of MiCA.

77. In order to match clients with suitable investments and services, crypto-asset service providers should establish policies and procedures to ensure that they consistently take into account:
 - all available information about the client necessary to assess whether a cryptoasset or service is suitable, including the client's current portfolio of investments (and asset allocation within that portfolio which should not be limited to crypto assets allocation);
 - all material characteristics of the crypto-assets and services considered in the suitability assessment, including all relevant risks and any direct or indirect costs to the client.
78. Crypto-asset service providers are reminded that the suitability assessment is not limited to recommendations to buy a crypto-asset. Every recommendation must be suitable, whether it is, for example, a recommendation to buy, hold or sell a crypto-asset, or not to do so.
79. Crypto-asset service providers that rely on tools in the suitability assessment process (such as model portfolios, asset allocation software or a risk-profiling tool for potential investments), should have appropriate systems and controls to ensure that the tools are fit for purpose and produce satisfactory results.
80. In this regard, the tools should be designed so that they take account of all the relevant specificities of each client or crypto-asset. For example, tools that classify clients or crypto-assets broadly would not be fit for purpose.
81. A crypto-asset service provider should establish policies and procedures which enable it to ensure inter alia that:

³³⁴ It is particularly important that the liquidity risk identified is not balanced out with other risk indicators (such as, for example, those adopted for the assessment of credit/counterparty risk and market risk). This is because the liquidity features of cryptoassets should be compared with information on the client's willingness to hold the crypto-assets for a certain length of time, i.e. the so called 'holding period'.

- the advice on crypto-assets and portfolio management of crypto-assets services provided to the client take account of an appropriate degree of risk diversification, including regarding the type of instruments held in the portfolio (crypto assets, financial instruments, etc.);
 - the client has an adequate understanding of the relationship between risk and return, i.e. of the necessarily low remuneration of risk free assets, of the incidence of time horizon on this relationship and of the impact of costs on his investments;
 - the financial situation of the client can finance the crypto-assets and the client can bear any possible losses resulting from the investments;
 - any personal recommendation or transaction entered into in the course of providing advice on crypto-assets or portfolio management of crypto-assets, where an illiquid product is involved, takes into account the length of time for which the client is prepared to hold the investment; and
 - any conflicts of interest are prevented from adversely affecting the quality of the suitability assessment.
82. When making a decision on the methodology to be adopted to conduct the suitability assessment, the crypto-asset service provider should also take into account the type and characteristics of the crypto-asset services provided and, more in general, its business model.
83. When conducting a suitability assessment, a crypto-asset service provider providing the service of portfolio management of crypto-assets should, on the one hand, assess - in accordance with the second bullet point of paragraph 41 of these guidelines - the knowledge and experience of the client regarding each type of crypto-asset that could be included in his portfolio, and the types of risks involved in the management of his portfolio. Depending on the level of complexity of the crypto-assets involved, the cryptoasset service provider should assess the client's knowledge and experience more specifically than solely on the basis of the type to which the crypto-asset belongs (e.g., an asset-referenced token linked to a basket of emerging markets currencies versus an asset-referenced token solely linked to EUR and USD). On the other hand, with regard to the client's financial situation and investment objectives, the suitability assessment about the impact of the crypto-asset(s) and transaction(s) can be done at the level of the client's portfolio as a whole. In practice, if the portfolio management agreement defines in sufficient details the investment strategy that is suitable for the client with regard to the suitability criteria defined by MiCA and that will be followed by the crypto-asset service provider, the assessment of the suitability of the investment decisions could be done against the investment strategy as defined in the portfolio management agreement and the portfolio of the client as a whole should reflect this agreed investment strategy. When a crypto-asset service provider conducts a suitability assessment based on the consideration of the client's portfolio as a whole within the service of advice on cryptoassets, this means that, on the one hand, the level of knowledge and experience of the client should be assessed regarding each crypto-asset and risks involved in the related transaction. On the other hand, with regard to the client's financial situation and investment objectives, the suitability assessment about the impact of the product and transaction can be done at the level of the client's portfolio.
84. When a crypto-asset service provider conducts a suitability assessment based on the consideration of the client's portfolio as a whole, it should ensure an appropriate degree of diversification within the client's portfolio, taking into account the client's portfolio exposure to the different financial risks (geographical exposure, currency exposure, etc.). Crypto-asset service providers should be especially prudent regarding credit risk: exposure of the client's portfolio to one single issuer or to issuers part of the same group should be particularly considered. This is because, if a client's portfolio is concentrated in products issued by one

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single entity (or entities of the same group), in case of default of that entity, the client may lose up to his entire investment.

85. In order to ensure the consistency of the suitability assessment conducted through automated tools (even if the interaction with clients does not occur through automated systems), crypto-asset service providers should regularly monitor and test the algorithms that underpin the suitability of the transactions recommended or undertaken on behalf of clients. When defining such algorithms, crypto-asset service providers should take into account the nature and characteristics of the crypto-assets and services included in their offer to clients. In particular, crypto-asset service providers should at least:
- establish an appropriate system-design documentation that clearly sets out the purpose, scope and design of the algorithms. Decision trees or decision rules should form part of this documentation, where relevant;
 - have a documented test strategy that explains the scope of testing of algorithms. This should include test plans, test cases, test results, defect resolution (if relevant), and final test results;
 - have in place appropriate policies and procedures for managing any changes to an algorithm, including monitoring and keeping records of any such changes. This includes having security arrangements in place to monitor and prevent unauthorised access to the algorithm;
 - review and update algorithms to ensure that they reflect any relevant changes (e.g. market changes and changes in the applicable law) that may affect their effectiveness;
 - have in place policies and procedures enabling to detect any error within the algorithm and deal with it appropriately, including, for example, suspending the provision of advice if that error is likely to result in an unsuitable advice and/or a breach of relevant law/regulation;
 - have in place adequate resources, including human and technological resources, to monitor and supervise the performance of algorithms through an adequate and timely review of the advice provided; and
 - have in place an appropriate internal sign-off process to ensure that the steps above have been followed.
86. Where advice on crypto-assets or portfolio management of crypto-assets are provided in whole or in part through an automated or semi-automated system, the responsibility to undertake the suitability assessment should remain with the crypto-asset service provider providing the service and shall not be reduced by the use of an electronic system in making the personal recommendation or decision to trade.

5.9 Costs and complexity of equivalent products (Guideline 9)

Relevant legislation: Article 81(1), (10) and (12) of MiCA.

87. Suitability policies and procedures should ensure that, before a crypto-asset service provider makes a decision on the crypto-asset(s) that will be recommended, or invested in the portfolio managed on behalf of the client, a thorough assessment of the possible crypto-assets and crypto-asset services alternatives is undertaken, taking into account products' cost and complexity.
88. A crypto-asset service provider should have a process in place, taking into account the nature of the service, its business model and the type of crypto-assets that are provided, to assess crypto-assets available that

are 'equivalent' to each other in terms of ability to meet the client's needs and circumstances, such as crypto-assets with similar target clients and similar risk-return profile.

89. When considering the cost factor, crypto-asset service providers should take into account all costs and charges covered by the relevant provisions under Article 81(4) of MiCA. As for the complexity, crypto-asset service providers should refer to the criteria identified in the above guideline 7. For crypto-asset service providers with a restricted range of crypto-assets, or those recommending one type of crypto-asset, where the assessment of 'equivalent' crypto-asset could be limited, it is important that clients are made fully aware of such circumstances. In this context, it is particularly important that clients are provided appropriate information on how restricted the range of crypto-assets offered is, pursuant to Article 81(2)(b) of MiCA.³³⁵
90. Where a crypto-asset service provider uses common portfolio strategies or model investment propositions that apply to different clients with the same investment profile (as determined by the crypto-asset service provider), the assessment of cost and complexity for 'equivalent' crypto-assets could be done on a higher level, centrally, (for example within an investment committee or any other committee defining common portfolio strategies or model investment propositions) although a crypto-asset service provider will still need to ensure that the selected crypto-assets are suitable and meet their clients' profile on a client-by-client basis.
91. Crypto-asset service providers should be able to justify those situations where a more costly or complex crypto-asset is chosen or recommended over an equivalent cryptoasset, taking into account that for the selection process of products in the context of advice on crypto-assets or portfolio management further criteria can also be considered (for example: the portfolio's diversification, liquidity, or risk level). Crypto-asset service providers should document and keep records about these decisions, as these decisions should deserve specific attention from control functions within the crypto-asset service provider. The respective documentation should be subject to internal reviews. When providing advice on crypto-assets crypto-asset service providers could, for specific welldefined reasons, also decide to inform the client about the decision to choose the more costly and complex crypto-asset.

5.10 Costs and benefits of switching investments (Guideline 10)

Relevant legislation: Article 81(1), (10) and (12) of MiCA.

92. As part of the policies and procedures on the suitability assessment, crypto-asset service providers should undertake an analysis of the costs and benefits of a switch such that crypto-asset service providers are reasonably able to demonstrate that the expected benefits of switching are greater than the costs.
93. For the purpose of this guideline, investment decisions such as rebalancing a portfolio under management, in the case of a "passive strategy" to replicate an index (as agreed with the client) would normally not be considered as a switch. For the avoidance of doubt, any transaction without maintaining these thresholds would be considered as a switch.
94. Crypto-asset service providers should take all necessary information into account, so as to be able to conduct a cost-benefit analysis of the switch, i.e. an assessment of the advantages and disadvantages of the new crypto-asset(s) considered. When considering the cost dimension, crypto-asset service providers should take into account all costs and charges covered by the relevant provisions under Article 81(4) of

³³⁵ In accordance with MiCA, crypto-asset service providers are therefore not expected to consider the whole universe of possible crypto-asset options existing in the market in order to follow guideline 7.

APPENDIX 41: ESMA GUIDELINES ON CERTAIN ASPECTS OF THE SUITABILITY REQUIREMENTS AND FORMAT OF THE PERIODIC STATEMENT FOR PORTFOLIO MANAGEMENT ACTIVITIES UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MiCA)

MiCA. In this context, both monetary and non-monetary factors of costs and benefits could be relevant. These may include, for example:

- the expected net return of the proposed alternative transaction (which also considers any possible up-front cost to be paid by the client(s)) vs the expected net return of the existing investment (that should also consider any exit cost which the client(s) might incur to divest from the crypto-asset already in his/their portfolio);
- a change in the client's circumstances and needs, which may be the reason for considering the switch, e.g. the need for liquidity in the short term as a consequence of an unexpected and unplanned family event;
- a change in the crypto-assets' features and/or market circumstances, which may be a reason for considering a switch in the client(s) portfolio(s), e.g. if a cryptoasset becomes illiquid due to market trends;
- benefits to the client's portfolio stemming from the switch, such as (i) an increase in the portfolio diversification (by geographical area, type of crypto-asset, type of issuer, etc.); (ii) an increased alignment of the portfolio's risk profile with the client's risk objectives; (iii) an increase in the portfolio's liquidity; or (iv) a decrease of the overall credit risk of the portfolio.

95. When providing advice on crypto-assets, a clear explanation of whether or not the benefits of the recommended switch are greater than its costs should be included in the suitability report³³⁶ the crypto-asset service provider has to provide to the client before the transaction is made.
96. Crypto-asset service providers should also adopt systems and controls to monitor the risk of circumventing the obligation to assess costs and benefits of recommended switch, for example in situations where an advice to sell a crypto-asset is followed by an advice to buy another crypto-asset at a later stage (e.g. days later), but the two transactions were in fact strictly related from the beginning.
97. Where a crypto-asset service provider uses common portfolio strategies or model investment propositions that apply to different clients with the same investment profile (as determined by the crypto-asset service provider), the costs/benefits analysis of a switch could be done on a higher level than at the level of each individual client or each individual transaction. More especially, when a switch is decided centrally, for example within an investment committee or any other committee defining common portfolio strategies or model investment propositions, the costs/benefits analysis could be done at the level of that committee. If such a switch is decided centrally, the costs/benefits analysis done at that level would usually be applicable to all comparable client portfolios without making an assessment for each individual client. In such a situation also, the crypto-asset service provider could determine, at the level of the relevant committee, the reason why a switch decided will not be performed for certain clients. Although the costs/benefits analysis could be done at a higher level in such situations, the cryptoasset service provider should nevertheless have appropriate controls in place to check that there are no particular characteristics of certain clients that might require a more discrete level of analysis.
98. Where a portfolio manager has agreed a more bespoke mandate and investment strategy with a client due to the client's specific investment needs, a cost-benefit analysis of the switch at client-level should be performed, in contrast to the above.

³³⁶ The report on suitability referred to in Article 81(13) of MiCA.

99. Notwithstanding the above, if a portfolio manager considers that the composition or parameters of a portfolio should be changed in a way that is not permitted by the mandate agreed with the client, the portfolio manager should discuss this with the client and review or conduct a new suitability assessment to agree a new mandate.

5.11 Qualifications of staff (Guideline 11)³³⁷

Relevant legislation: Articles 68(5) and 81(7) of MiCA.

100. Crypto-asset service providers are required to ensure that staff involved in material aspects of the suitability process have an adequate level of skills, knowledge and expertise with regard to crypto-assets and crypto-asset services.
101. Staff should understand the role they play in the suitability assessment process and possess the skills, knowledge and expertise necessary, including sufficient knowledge of the relevant regulatory requirements and procedures, to discharge their responsibilities.
102. Staff should possess the necessary knowledge and competence, including with regard to the suitability assessment. To that effect, crypto-asset service providers should give staff appropriate training.
103. Other staff that does not directly face clients but is involved in the suitability assessment in any other way should still possess the necessary skills, knowledge and expertise required depending on their particular role in the suitability process. This may regard, for example, setting up the questionnaires, defining algorithms governing the assessment of suitability or other aspects necessary to conduct the suitability assessment and controlling compliance with the suitability requirements.
104. Where relevant, when employing automated tools (including hybrid tools), crypto-asset service providers should ensure that their staff involved in the activities related to the definition of these tools:
- have an appropriate understanding of the technology and algorithms used to provide digital advice (particularly they are able to understand the rationale, risks and rules behind the algorithms underpinning the digital advice); and
 - are able to understand and review the digital/automated advice generated by the algorithms.

6 Guidelines on the format of the periodic statement for portfolio management of crypto-assets

6.1 Durable medium (Guideline 1)

Relevant legislation: Article 81(14) of MiCA.

105. Crypto-asset service providers should provide each such client with the periodic statement provided for in Article 81(14) of MiCA in an electronic format that is also a durable medium.
106. Such medium should enable a client to i) store the information addressed personally to that client in a way accessible for future reference and for a period of time adequate for the purposes of the information; and ii) allow the unchanged reproduction of the information stored.

³³⁷ As per the mandate under Article 81(15)(a) of MiCA, ESMA will, at a later date, issue more general guidelines on the criteria for the assessment of knowledge and competence in accordance Article 81(7) of MiCA.

6.2 Access to an online system (Guideline 2)

Relevant legislation: Article 81(14) of MiCA.

107. For the purposes of Article 81(14), second subparagraph of MiCA, crypto-asset service providers should ensure that:

- the online system their clients have access to qualifies as a durable medium;
- the client is notified electronically of where and how the information may be accessed (for instance, if the online system is a website, the client should be notified of the address of the website, and the place on the website where the information may be accessed);
- the client is notified when a new periodic statement is made available; and
- the information is accessible continuously through that online system and for such period of time as the client may reasonably need to inspect it.

6.3 Content of the periodic statement (Guideline 3)

Relevant legislation: Article 81(14) of MiCA.

108. To ensure that clients get a fair and balanced review of the activities undertaken, of the performance of the portfolio and of how the activities undertaken meet the preferences, objectives and updated information on the suitability assessment during the reporting period, the periodic statement should include, as a minimum:

- a statement of the contents and the valuation of the portfolio, including details of each crypto-asset held, its market value, or fair value if market value is unavailable and the cash balance, all at the beginning and at the end of the reporting period;
- the performance of the portfolio during the reporting period, including any tokens received for free for the continuity of operations of a proof-of-work and proof-of-stake- blockchain consensus mechanisms (staking awards);
- the total amount of fees and charges incurred during the reporting period, itemising at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;
- a comparison of performance during the period covered by the statement with the performance benchmark (if any) agreed between the crypto-asset service provider and the client;
- for each transaction executed during the period, the main characteristics of the relevant transaction;
- an explanation as to how the activities or lack of activity meet the preferences, objectives and other characteristics of the client.

109. Crypto-asset service providers should also specify the date of the last suitability assessment or its review and, if relevant, on which basis it was last updated (e.g. new information provided by the client causing a change in the client's profile, new criteria applied by the crypto-asset service provider).

APPENDIX 42: ESMA GUIDELINES FOR THE CRITERIA ON THE ASSESSMENT OF KNOWLEDGE AND COMPETENCE UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MICA)

(11 July 2025 - ESMA35-1872330276-2380)

1 Scope

Who?

1. These guidelines apply to: a. competent authorities and b. crypto-asset service providers as defined in Article 3(1)(15) of MiCA.

What?

2. These guidelines apply in relation to the provision of crypto-asset services listed in Article 3(1)(16) of MiCA.

When?

3. These guidelines apply from 6 months from the date of their publication on ESMA's website, in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ³³⁸
IDD	Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution ³³⁹
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ³⁴⁰
MiFID II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

³³⁸ OJ L 331, 15.12.2010, p. 84
³³⁹ OJ L 26, 2.2.2016, p. 19–59.
³⁴⁰ OJ L 150, 9.6.2023, p. 40–205.

2.2 Abbreviations

EU	European Union
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority

2.3 Definitions

4. Unless otherwise specified, terms used in MiCA have the same meaning in these guidelines. In addition, the following definitions apply:

- a. 'Staff' means natural persons providing relevant services to clients on behalf of the crypto-asset service provider.
- b. 'Relevant services' means giving advice or information on crypto-assets or cryptoasset services to clients.
- c. 'Giving information' means directly providing information to clients about cryptoassets or crypto-asset services, either upon the request of the clients or at the initiative of the crypto-asset service provider, in the context of the provision by the staff member to the client of any of the services listed in Article 3(1)(16) of MiCA.
- d. 'Knowledge and competence' means having acquired an appropriate qualification and appropriate experience to fulfil obligations in Articles 68 and 81 of MiCA in order to provide the relevant services.
- e. 'Appropriate qualification' means a qualification or other test or training course that meets the criteria set out by these guidelines.
- f. 'Appropriate experience' means that a member of staff has successfully demonstrated the ability to perform the relevant services through previous work. Beyond the minimum guidance regarding appropriate experience set out in these guidelines, the competent authority can differentiate the period of experience, depending on the appropriate qualification attained by staff and also depending on the relevant services being provided.
- g. 'Under supervision' means providing the relevant services to clients under the responsibility of a staff member who has both an appropriate qualification and appropriate experience.

3 Purpose

5. These guidelines, developed by ESMA, are based on Article 81(15)(a) of MiCA and Article 16(1) of the ESMA regulation. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in Articles 68(5) and 81(7) of MiCA.

6. In particular, ESMA expects these guidelines to promote greater convergence in the criteria for the assessment of knowledge and competence of staff providing advice or information about crypto-assets or crypto-asset services and their application. These guidelines provide important guidance to assist crypto-asset service providers in meeting their obligations to act in the best interest of their clients and to assist competent authorities to adequately assess how crypto-asset service providers meet these obligations. In complying with these guidelines, ESMA anticipates a corresponding strengthening of investor protection.

7. The Annex includes a number of illustrative examples of how a crypto-asset service provider might apply the guidelines.

4 Compliance and reporting obligations

4.1 Status of the guidelines

8. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and crypto-asset service providers shall make every effort to comply with these guidelines.

9. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants, i.e., crypto-asset service providers. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

10. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

11. A template for notification is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.

12. Crypto-asset service providers are not required to report whether they comply with these guidelines.

5 Guidelines for the criteria on the assessment of knowledge and competence³⁴¹

5.1 General (Guideline 1)

13. Crypto-asset service providers should ensure that staff providing relevant services possess the necessary knowledge and competence to meet the relevant regulatory and legal requirements and business ethics standards.

14. Crypto-asset service providers should ensure that staff know, understand, and apply the crypto-asset service provider's internal policies and procedures designed to ensure compliance with MiCA. In order to ensure a proportionate application of knowledge and competence requirements, crypto-asset service providers should ensure that staff have the necessary levels of knowledge and competence to fulfil their obligations, reflecting the scope and degree of the relevant services provided.

15. The management body of the crypto-asset service provider should, at least on an annual basis, assess and review the effectiveness of the policies and procedures established to comply with Articles 68(5) and 81(7) of MiCA and these guidelines and should take appropriate measures to address any deficiencies identified in that respect.

³⁴¹ These guidelines apply without prejudice to any other guidelines on the knowledge and competence of staff providing financial services, for example, the MiFID II Guidelines for the assessment of knowledge and competence (ESMA71-1154262120-153).

16. The level and depth of knowledge and competence expected for staff giving advice on crypto-assets and crypto-asset services should be of a higher standard than those that only give information on crypto-assets and crypto-asset services.

17. Where information or advice about crypto-assets or crypto-asset services is provided in an automated or semi-automated manner, crypto-asset service providers should ensure that these guidelines apply to staff responsible for determining the content of the information or advice delivered to clients. Staff setting the parameters and deciding on the settings for such information or advice to be delivered should also have sufficient knowledge and competence to ensure that appropriate information or advice is provided accurately, in adequate circumstance and to the right recipients.

5.2 Criteria for knowledge and competence of staff giving information about crypto-assets or crypto-asset services (Guideline 2)

18. Crypto-asset service providers should ensure that staff giving information about cryptoassets or crypto-asset services available through the crypto-asset service provider have the necessary knowledge and competence to understand:

- a. the key characteristics, risks and features of the crypto-asset services offered by the crypto-asset service provider and the crypto-assets made available through these crypto-asset services by the crypto-asset service provider, as well as the functioning of distributed ledger technology and the key features and functioning of the different protocols used and the impact they may have for transactions in crypto-assets or crypto-asset services. Particular care should be taken when giving information with respect to risks related to the crypto-assets characterised by higher levels of complexity and volatility;
- b. the types of costs and charges to be incurred by the client in the context of transactions in crypto-assets, or provision of crypto-asset services, and how they contribute to the total amount; including fees crypto-asset service providers charge for their own services and other costs such as those incurred through the relevant DLT network (e.g., gas fees);
- c. how crypto-asset markets function and how they affect the value and pricing of crypto-assets on which the staff provide information to clients, including:
 - the features, functioning and risk of the different types of crypto-assets;
 - the potential impact of investor sentiments and social media on rapid price changes of crypto-assets in very short time periods ("high price volatility"), which may be difficult to predict;
 - the potential impact of holders of large amount of crypto-assets on the liquidity and price volatility in crypto-asset markets³⁴²;
- d. the impact of economic figures, crucial national/regional/global events on markets and on the value of crypto-assets on which they provide information;
- e. the difference between past performance and future performance scenarios as well as the limits of predictive forecasting;

³⁴² For example, in relation to liquidity, investors holding a large number of a crypto-asset often keep their holdings for a longer time period, thus decreasing the available supply of the crypto-asset in the market for other investors. Or, relating to volatility, holders of a large number of a crypto-asset may cause significant price movements in the market when they suddenly sell a large portion or the totality of their holdings.

- f. the differences between the investor protection safeguards for clients investing in crypto-assets and using crypto-asset services under MiCA and clients investing in financial instruments and using investment services regulated under the MiFID II framework, as well as the impact of these differences on the protection of clients investing in crypto-assets and using crypto-asset services;
- g. issues relating to market abuse and anti-money laundering and terrorist financing;
- h. data relevant to the crypto-assets on which the staff provide information to clients such as provided by white papers, financial statements, or financial data;
- i. specific market structures for the crypto-assets on which the staff provide information to clients and, where relevant, their trading platforms³⁴³ or the existence of any secondary markets;
- j. basic valuation mechanisms applicable to crypto-assets in relation to which the information is provided.

For the purposes of a. above, the key risks to be considered should include, as a minimum:

- volatility;
- cyber security risks, such as risks of hacks and theft of clients' crypto-assets;
- risks related to client's inappropriate storage of their private cryptographic keys;
- IT programming risks, for example malfunctioning of IT programs due to shortcomings in software programming ("bugs") could lead to the loss of clients' crypto-assets;
- risks related to crypto-asset transfers such as the risk of losing crypto-assets, if clients choose a DLT network which is not supported for the transfer of the cryptoasset.

For the purposes of a. above and, more specifically, the understanding of the key features and functioning of specific protocols, staff giving information about crypto-assets or crypto-asset services should notably have a basic understanding of, at least:

- the consensus mechanism applicable to the protocol and its consequences,
- the rules for the validation of transactions on this protocol,
- the scalability of the protocol,
- its decentralisation level and governance structure, the measures in place to protect the network from attacks or frauds,
- its interoperability,
- its use case (the primary purpose or application the protocol is designed to support such as payment systems, supply chain, smart contracts),
- the economic model governing the crypto-asset, including supply, distribution, and incentives for validation.

³⁴³ For example trading platforms for crypto-assets which are open 24 hours.

19. Crypto-asset service providers should ensure that staff giving information about cryptoassets or crypto-asset services on their behalf have obtained, prior to providing such information, the relevant knowledge and competence on the points set out in paragraph 18. This should be demonstrated by passing an assessment conducted either by the crypto-asset service provider itself or an external body and the obtention of, for example:

- a. a professional qualification of at least 80 hours and appropriate experience of at least 6 months under supervision; or
- b. appropriate experience of at least 1 year under supervision.

20. Existing members of staff giving information on crypto-assets or crypto-asset services³⁴⁴ on the date of entry into application of these guidelines may be considered by cryptoasset service providers as having the necessary knowledge and competence to fulfil their obligations, by (i) successfully giving information on crypto-assets or crypto-asset services on a full-time equivalent basis, (ii) under or without supervision, and (iii) for a minimum period of 1 year, prior to the entry into application of these guidelines.

21. Crypto-asset service providers should determine, based on the nature of the cryptoassets and crypto-asset services on which they give information, the adequate minimum number of hours of continuous professional development or training (CPD) per year that staff giving information about crypto-assets or crypto-asset services should complete, taking into account:

- the existing knowledge and competence of staff members giving information about crypto-assets or crypto-asset services; and
- applicable regulatory changes, key market developments and newly emerging technologies, including potential related risks for investors.

For example, staff giving information on a limited range of crypto-assets or crypto-asset services of the least complex nature should complete a number of CPD hours of 10 hours.

Crypto-asset service providers should ensure that their staff giving information on cryptoassets or crypto-asset services complete the relevant number of hours of CPD per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

5.3 Criteria for knowledge and competence for staff giving advice about cryptoassets or crypto-asset services (Guideline 3)

22. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services comply with paragraph 18 of Guideline 2, as such guidance is also relevant for staff giving advice about crypto-assets or crypto-asset services.

23. In addition, crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services understand:

³⁴⁴ This includes members of staff who provided information on crypto-assets or crypto-asset services to clients on the behalf of virtual asset service providers (VASPs) under a pre-MiCA national regulatory framework.

- a. the total amount of costs and charges to be incurred by the client in the context of the advice provided, including fees crypto-asset service providers charge for their own services (including for advice) and other costs such as those incurred through the relevant DLT network (e.g. gas fees);
- b. the obligations of crypto-asset service providers in relation to the suitability requirements under Article 81 of MiCA, including the obligations as set out in the Guidelines on certain aspects of the suitability requirements and format of the periodic statement for portfolio management activities under MiCA³⁴⁵;
- c. how crypto-assets or a specific crypto-asset provided by the crypto-asset service provider may not be suitable for the client, having assessed the relevant information provided by the client against potential changes that may have occurred since the relevant information was gathered;
- d. the fundamentals of managing a portfolio, including being able to understand the implications of diversification regarding individual investment alternatives; and
- e. understand the valuation mechanisms applicable to the crypto-assets subject to the advice.

24. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services on behalf of the crypto-asset service provider have obtained, prior to providing such advice, the relevant knowledge and competence on the points set out in paragraphs 22 and 23. This should be demonstrated by passing an assessment conducted either by the crypto-asset service provider itself or an external body and following, for example, the obtention of:

- a. a degree of tertiary education³⁴⁶ of three years of study relevant for the provision of advice on crypto-asset or crypto-asset services and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
- b. a secondary education degree and a professional formation of at least 3 years and appropriate experience of at least 1 year in the provision of the relevant cryptoasset services under supervision; or
- c. a professional formation of at least 160 hours and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
- d. professional experience of at least 2 years which was acquired in the provision of advice under MiFID II or IDD preceding the start of the provision of advice on crypto-assets and crypto-asset services and appropriate experience of at least 6 months in the provision of the relevant crypto-asset services under supervision.

25. Existing members of staff giving advice on crypto-assets or crypto-asset services³⁴⁷ on the date of entry into application of these guidelines may be considered by crypto-asset service providers as having the necessary knowledge and competence to fulfil their obligations by (i) successfully providing advice on crypto-assets or crypto-asset services on a full-time equivalent basis, (ii) under or without supervision, and (iii) for a minimum period of 1 year prior to the entry into application of these guidelines.

26. Crypto-asset service providers should determine, based on the nature of the cryptoassets and crypto-asset services on which they give advice, the adequate minimum number of hours of continuous professional

³⁴⁵ Available here <https://www.esma.europa.eu/document/final-report-guidelines-specifying-certain-requirements-markets-crypto-assets-regulation>

³⁴⁶ For example a university degree or equivalent in a field such as economics, law or business administration.

³⁴⁷ This includes members of staff who provided advice on crypto-assets or crypto-asset services to clients on the behalf of virtual asset service providers (VASPs) under a pre-MiCA national regulatory framework.

development or training (CPD) per year that staff giving advice about crypto-assets or crypto-asset services that are available through the crypto-asset service provider should complete, taking into account:

- a. the existing knowledge and competence of staff members giving advice about crypto-assets or crypto-asset services³⁴⁸;
- b. regulatory changes, key market developments and newly emerging technologies, including potential related risks for investors.

For example, staff giving advice on a limited range of crypto-assets or crypto-asset services of the least complex nature should complete a number of CPD hours of 20 hours.³⁴⁹

Crypto-asset service providers should ensure that their staff giving advice about cryptoassets or crypto-asset services complete the relevant number of hours of CPD per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

5.4 Organisational requirements for assessment, maintenance and updating of knowledge and competence (Guideline 4)

27. Crypto-asset service providers should set out the responsibilities of staff and ensure that, where relevant, in accordance with the services provided by the crypto-asset service provider and its internal organisation, there is a clear distinction in the description of responsibilities between the roles of giving advice and giving information.

28. Crypto-asset service providers should:

- a. ensure that staff providing relevant services to clients are assessed through the successful completion of an appropriate qualification and having gained appropriate experience in the provision of relevant crypto-asset services to clients;
- b. carry out an internal or external review, on at least an annual basis, of staff members' development and experience needs, assess regulatory developments and take action necessary to comply with applicable requirements. This review should also ensure that staff possess an appropriate qualification and maintain and update their knowledge and competence by undertaking continuous professional development or training, at least in accordance with the relevant minimum guidance set out in these guidelines. This should also include specific training in advance of any new type of crypto-asset or crypto-asset service being offered by the crypto-asset service provider;
- c. ensure that they submit to their competent authority, on request, records concerning knowledge and competence of staff providing relevant services to clients. These records should contain information that enables the national competent authority to assess and verify compliance with these guidelines;

³⁴⁸ For example, staff providing advice on complex crypto-asset containing client portfolios may need more CPD hours per year than staff providing advice on regular monthly crypto-asset investments of small amounts.

³⁴⁹ As the provision of advice on crypto-assets or crypto-asset services is a more complex service than giving information on cryptoassets or crypto-asset services, these 20 hours of CPD cover the 10 hours of CPD set out in paragraph 21.

- d. ensure that when a member of staff has not acquired the necessary knowledge and competence in the provision of the relevant crypto-asset services, this staff member cannot provide the relevant services. Where a member of staff has not acquired the appropriate qualification or the appropriate experience to provide the relevant crypto-asset services or both, this staff member should be allowed to provide the relevant services under supervision. The level and intensity of supervision should reflect the relevant qualification and experience of the staff member being supervised and this could include, where appropriate, supervision during meetings with clients and other forms of communication such as telephone calls and e-mails. CASPs should ensure that a staff member who has not acquired the necessary knowledge and experience should be able to work under supervision for a maximum period of 4 years, except where a shorter period is determined by the competent authority;
- e. ensure that, in situations under letter d., the staff member supervising other staff has the necessary knowledge and competence referred to in these guidelines and the necessary skills and resources to act as a competent supervisor;
- f. ensure that the supervision provided is tailored to the services to be provided by that staff member and cover the principles of these guidelines relevant to those services;
- g. ensure that the supervisor takes responsibility for the provision of the relevant services when the staff member under supervision is providing relevant services to a client, as if the supervisor is providing the relevant services to the client, including signing-off the suitability report where advice is being provided.

6 Annex: Illustrative examples of the application of certain aspects of the guidelines

Examples relating to the scope of the guidelines

29. The following examples set out instances where a staff member would not fall within the scope of the guidelines:

- a. employees only pointing out where clients can find information provided by the crypto asset service provider;
- b. employees distributing brochures and leaflets to clients without giving additional information with regards to its content or providing any follow up crypto-asset services to those clients;
- c. employees who only hand over information at the client's request without giving any additional information with regards to its content or providing any follow up crypto-asset services to those clients; and
- d. employees who perform back-office functions without direct relevance for clients, and do not have direct contact with the clients.³⁵⁰

General examples relating to Guideline 1:

30. A crypto-asset service provider provides regular mandatory training to staff in the area of MiCA conduct of business, and organisational requirements.

³⁵⁰ However, employees in charge of drafting and publishing information with direct relevance for clients (e.g. - information regarding crypto-assets including recommendations to buy crypto-assets available on their platform) would be in scope of these guidelines, even though they may not be in direct contact with clients.

31. The crypto-asset service provider adopts a code of ethics to set forth the standards of business conduct and behaviour necessary for the proper provision of relevant services and obtain written acknowledgements from staff that they have read, understood and complied with it.

Examples relating to the Guidelines 1, 2 and 3:

32. A crypto-asset service provider provides regular mandatory training to staff in the features and characteristics, including potential risks, of the crypto-assets offered by the provider. This comprises training about products newly offered by the crypto-asset service provider.

33. A crypto-asset service provider ensures its staff are familiar with the situations in which conflicts of interest arise and how to apply the policies and procedures to identify, prevent, manage and disclose conflicts of interest established by the crypto-asset service provider in accordance with Article 72 of MiCA.

34. A crypto-asset service provider ensures its staff are familiar with the situations as to when a crypto-asset service provider may pay or receive an inducement and the relevant legal requirements regulating inducements.

35. CPD courses also include as part of the training and exam assessments of the participant facing client and providing advice in a practical context, which includes for example finding out the client's investment objectives, the comparison of different products and the explanation of crypto-asset related risks to the client.

Examples relating to Guidelines 3 and 4

36. A crypto-asset service provider regularly monitors the suitability assessments provided by staff to assess whether the staff member has considered all aspects of the suitability requirements, against the specific details of the crypto-asset.

37. A crypto-asset service provider regularly monitors that relevant staff giving advice demonstrate:

- a. ability to ask appropriate questions to the client to understand her/his investment objectives, financial situation and knowledge and experience;
- b. ability to explain the risks and rewards of a particular crypto-asset or strategy to the client;
- c. ability to compare selected crypto-assets with regards to key features and risks, to be able to select the crypto-asset best suited to the client profile.

Examples relating to Guideline 4

38. The crypto-asset service provider documents staff roles and responsibilities and evaluates their performance against key set criteria contained in the description of responsibilities.

39. Crypto-asset service providers communicate publicly, in a way that is consistent and meaningful to clients, their criteria for demonstrating how staff comply with these guidelines.

40. Continuous or on-going professional development is required in order for staff to hold the "appropriate qualification". This ongoing assessment contains updated material and tests staff on their knowledge of, for example, regulatory changes, new crypto-assets and services available on the market. This ongoing assessment:

- a. may involve training in the form of courses, seminars, independent studies or learning; and
- b. includes an exam to verify that the staff has acquired the necessary knowledge and competence.

41. Crypto-asset service providers verify the relevance of continuous on-ongoing development being provided to staff providing relevant services.

APPENDIX 43: ESMA GUIDELINES ON THE PROCEDURES AND POLICIES, INCLUDING THE RIGHTS OF CLIENTS, IN THE CONTEXT OF TRANSFER SERVICES FOR CRYPTO-ASSETS UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MiCA) ON INVESTOR PROTECTION

(26/02/2025 - ESMA35-1872330276-2032)

1 Scope

Who?

1. These guidelines apply to:
 - (i) competent authorities and
 - (ii) crypto-asset service providers that act as providers of transfer services for cryptoassets on behalf of clients within the meaning of Article 3(1)(26) of MiCA.

What?

2. These guidelines apply in relation to Article 82 of MiCA.

When?

3. These guidelines apply 60 calendar days from the date of their publication on ESMA's website in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ³⁵¹
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ³⁵²
TOFR	Regulation (EU) 2023/1113 of the European Parliament and the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 ³⁵³

³⁵¹ OJ L 331, 15.12.2010, p. 84

³⁵² OJ L 150, 9.6.2023, p. 40-205

³⁵³ OJ L 150, 9.6.2023, p. 1–39

2.2 Abbreviations

EC	European Commission
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority
EU	European Union

3 Purpose

4. These guidelines, developed by ESMA in close cooperation with EBA, are based on Article 82(2) of MiCA. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in Article 82 of MiCA. In particular, they aim at providing more clarity on the requirements for crypto-asset service providers providing transfer services for crypto-assets on behalf of clients as regards procedures and policies, including the rights of clients, in the context of transfer services for cryptoassets. In this regard, ESMA anticipates a corresponding strengthening of investor protection.

These guidelines apply without prejudice to the relevant rules under PSD 2, where applicable to relevant transfers of crypto-assets, notably EMTs.

4 Compliance and reporting obligations

4.1 Status of the guidelines

5. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and crypto-asset service providers shall make every effort to comply with these guidelines.
6. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case, competent authorities should ensure through their supervision that crypto-asset service providers comply with the guidelines.

4.2 Reporting requirements

7. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
8. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.
9. A template for notification is available on ESMA's website.³⁵⁴ Once the template has been filled in, it shall be transmitted to ESMA.

³⁵⁴ See: https://www.esma.europa.eu/sites/default/files/library/esma42-110-1132_confirmation_of_compliance_with_guidelines.pdf

10. Crypto-asset service providers are not required to report whether they comply with these guidelines.

5 Guidelines on the policies and procedures in the context of transfer services for crypto-assets

5.1 General provisions on the policies and procedures on transfer of crypto-assets (Guideline 1)

11. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures (including appropriate tools) to ensure that, in good time before the client enters into any agreement for the provision of transfer services for cryptoassets, they provide the client, in an electronic format, with the information and conditions related to the transfer services for crypto-assets.

12. The information provided should include at least the following:

- the name of the crypto-asset service provider, the address of its head office, and any other address and means of communication, including electronic mail address, relevant for communication with the crypto-asset service provider;
- the name of the national competent authority in charge of supervising the cryptoasset service provider;
- a description of the main characteristics of the transfer service for crypto-assets to be provided;
- a description of the form of and procedure for initiating or consenting to a transfer of crypto-assets and withdrawing an instruction or consent, including the specification of the information that has to be provided by the client in order for a transfer of crypto-assets to be properly initiated or executed (including, how to authenticate);
- the conditions under which the crypto-asset service provider may reject an instruction to carry out a transfer of crypto-assets;
- a reference to the procedure or process established by the crypto-asset service provider to determine the time of receipt of an instruction or consent to a transfer of crypto-assets and any cut-off time established by the crypto-asset service provider;
- an explanation per crypto-asset, of which distributed ledger technology (DLT) network is supported for the transfer of this crypto-asset;
- the maximum execution time for the transfer of crypto-assets service to be provided;
- for each DLT network, reasonably estimated time or number of block confirmations needed for the transfer to be irreversible on the DLT network or considered sufficiently irreversible in case of probabilistic settlement taking into account the rules and circumstances of the DLT network;
- all charges, fees or commissions payable by the client in relation to the cryptoassets transfer service, including those connected to the manner in and frequency with which information is provided or made available and, where applicable, the breakdown of the amounts of such charges;
- the means of communication, including basic information about the technical requirements for the client's equipment and software (for example, the minimum software or mobile operating system), agreed between the parties for the transmission of information or notifications related to the crypto-asset transfer service ;

- the manner in, and frequency with which, information related to the service of crypto-asset transfer is to be provided or made available;
 - the language or languages in which the agreement referred to in Article 82(1) of MiCA will be concluded and communication during this contractual relationship undertaken;
 - the secure procedure for notification of the client by the crypto-asset service provider in the event of suspected or actual fraud or security threats;
 - the means and time period within which the client is to notify the crypto-asset service provider of any unauthorised or incorrectly initiated or executed transfers of crypto-assets as well as the crypto-asset service provider's liability, including maximum amount thereof, for unauthorised or incorrectly initiated or executed transfers;
 - the right of the client to terminate the agreement on the provision of crypto-asset transfer services and the modalities to do so;
13. The policies and procedures relating to the transfer services of crypto-assets should ensure that the crypto-asset service provider provides the relevant information in easily understandable words and in a clear and comprehensible form.
14. The policies and procedures referred to in paragraph 12 should also ensure that:
- at any time during the contractual relationship related to the crypto-asset transfer services, the client should be able to access or receive, on request, the agreement referred to in Article 82(1) of MiCA as well as the information listed in paragraph 12, in an electronic format;
 - the client is made aware, of any intended change to the information listed in paragraph 12 in good time before such change starts to apply.
15. Crypto-asset service providers should be able to provide the relevant information at the time of providing a copy of the draft agreement referred to in Article 82(1) of MiCA.
16. As a good practice, crypto-asset service providers are encouraged to also take into account, in the policies and procedures referred to in paragraph 11, how to provide clients with educational material helping them to learn about and better understand their rights and the function and risks of crypto-asset transfers.

5.2 Information on individual transfers for crypto-assets (Guideline 2)

17. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures (including appropriate tools) to ensure that, after receipt of an instruction to transfer crypto-assets, but before the execution of the transfer of cryptoassets, the crypto-asset service provider provides the client with at least the following information:
- a brief and standardised warning as to whether and when the crypto-asset transfer will be irreversible or sufficiently irreversible in case of probabilistic settlement³⁵⁵;
 - the amount of any charges for the crypto-asset transfer payable by the client and, where applicable, a breakdown of the amounts of such charges, distinguishing, for example, between the gas fees charged

³⁵⁵ Depending on the type of consensus algorithms relating to the relevant DLT

for the transaction through the relevant DLT network and other fees crypto-asset service providers charge for their services.

18. The policies and procedures referred to in the previous paragraph should also ensure that initiation or execution of the transfer does not take place before adequate steps have been taken to ensure compliance with TOFR, including Article 14 thereof.
19. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures (including appropriate tools) to ensure that, after execution of individual transfers for crypto-assets, the crypto-asset service provider provides the client with at least the following information:
 - the names of the originator and the beneficiary;
 - the originator's distributed ledger address or crypto-asset account number;
 - the beneficiary's distributed ledger address or crypto-asset account number;
 - a reference enabling the client to identify each transfer of crypto-assets;
 - the amount and type of crypto-assets transferred or received;
 - the debit value date or the credit value date of the transfer of crypto-assets.
 - the amount of any charges, fees or commissions relating to the transfer of cryptoassets and, where applicable, a breakdown of the amounts of such charges.
20. The policies and procedures referred to in paragraph 19 should also cover the periodicity of the information listed in paragraph 19, any fees or charges incurred for the provision of the information and how the information is to be provided.
21. The information listed in paragraph 19 should be provided in an electronic format and, where not provided more frequently than once a month, free of charge
22. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures (including appropriate tools) to ensure, without prejudice to other applicable regulatory requirements, that, where a transfer of crypto-assets is rejected, returned or suspended, the client is provided with, at least, the following information:
 - the reason for the rejection, return or suspension; • if applicable, how to remedy the rejection, return or suspension;
 - the amount of any charges or fees incurred by the client and whether reimbursement is possible.

5.3 Execution times and cut-off times (Guideline 3)

23. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures relating to, at least:
 - the cut-off times for instructions for the transfer of crypto-assets to be regarded as received on the same business day;
 - the maximum execution times depending on the crypto-asset transferred

- the reasonable estimation of the time or number of block confirmations needed for the transfer of crypto-assets to be irreversible on the DLT, or sufficiently irreversible in case of probabilistic settlement, for each DLT network.

5.4 Rejection or suspension of an instruction to transfer cryptoassets or return of crypto-asset transferred (Guideline 4)

24. Crypto-asset service providers should establish, implement and maintain adequate riskbased policies and procedures for determining whether and how to execute, reject, return or suspend a transfer of crypto-assets. Such policies and procedures should particularly take into account the provisions of TOFR, as relevant and as specified in the European Banking Authority's Guidelines preventing the abuse of funds and certain crypto-assets transfers for money laundering and terrorist financing purposes.

5.5 Liability of the crypto-asset service provider (Guideline 5)

25. Crypto-asset service providers should establish, implement and maintain adequate policies and procedures determining the conditions of the liability of the crypto-asset service provider to clients in case of unauthorised or incorrectly initiated or executed transfers of crypto-assets.

APPENDIX 44: ESMA GUIDELINES ON SUPERVISORY PRACTICES FOR COMPETENT AUTHORITIES TO PREVENT AND DETECT MARKET ABUSE UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MiCA)

(09/07/2025 - ESMA75-453128700-1039)

1. Scope

1 Who?

These guidelines apply to competent authorities, as defined in Article 3(1)(35) of MiCA.

2 What?

These guidelines apply in relation to Article 92(3) of MiCA.

3 When?

These guidelines apply from three months from the date of their publication on ESMA's website in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ³⁵⁶
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ³⁵⁷
RTS on STOR	Commission Delegated Regulation (EU) xxxx/xxx of [date] specifying certain requirements in relation to the detection and prevention of market abuse under the Markets in Crypto Assets Regulation (MiCA)

2.2. Abbreviations

CASP	Crypto-asset service provider
EC	European Commission
ESMA	European Securities and Markets Authority

³⁵⁶ OJ L 331, 15.12.2010, p. 84

³⁵⁷ OJ L 150, 9.6.2023, p. 40

EU	European Union
MEV	Maximal extractable value
PPAET	Persons professionally arranging or executing transactions

2.3. Definitions

Social media	Online social networking service as defined in Article 2, point (7) of Regulation (EU) 2022/1925 of the European Parliament and the Council ³⁵⁸
Web- based platforms	Online platforms which collect and disseminate information and data on crypto-assets to promote informed investment decisions, accessible on a non-discriminatory basis and free of charge, as defined in Article 1 of the Commission Implementing Regulation (EU) 2024/2861 ³⁵⁹

3. Purpose

These guidelines are based on Article 92(3) of MiCA and Article 16 of the ESMA Regulation. The objective of these guidelines is to ensure consistency between competent authorities' supervisory practices to prevent and detect market abuse involving crypto assets.

More specifically, they aim to establish consistent, efficient and effective supervisory practices among competent authorities to prevent and detect insider dealing, unlawful disclosure of inside information and market manipulation. They also aim to ensure the common uniform and consistent application of Title VI of MiCA (Articles 86-92).

Compliance and reporting obligations

3.1. Status of the guidelines

In accordance with Article 16(3) of the ESMA Regulation, competent authorities must make every effort to comply with these guidelines.

Competent authorities to which these guidelines apply to should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate.

3.2. Reporting requirements

³⁵⁸ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).

³⁵⁹ Commission Implementing Regulation (EU) 2024/2861 of 12 November 2024 laying down implementing technical standards for the application of MICA with regard to the technical means for the appropriate public disclosure of inside information and for delaying the public disclosure of that information (OJ L, 2024/2861, 13.11.2024).

APPENDIX 44: ESMA GUIDELINES ON SUPERVISORY PRACTICES FOR COMPETENT AUTHORITIES TO PREVENT AND DETECT MARKET ABUSE UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MICA)

Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply yet but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.

A template for notifications is available on ESMA's website. Once the template has been filled in, it should be transmitted to ESMA.

4. Guidelines on supervisory practices for competent authorities to prevent and detect market abuse

4.1. Proportionality in the application of the Guidelines (Guideline 1)

1. Competent authorities should apply these guidelines in a way that is proportionate to the relevance of the activities and services performed by persons supervised in the crypto asset market and the risk that such activities and services pose to market integrity. Competent authorities are thus encouraged to develop and maintain a good understanding of the risks posed by CASPs and issuers directly supervised, as well as of the risks posed by other persons (traders, miners, validators or relevant persons active on social media), whose actions are susceptible to constitute market abuse (e.g. order book manipulation, MEV³⁶⁰ strategies, or spreading of false or misleading information).
2. Taking into consideration the rapid evolution of crypto markets, competent authorities should be particularly alert and vigilant to possible new forms of market abuse behaviours, adopting a risk-based approach in respect of the activities prescribed in these guidelines.
3. When applying these guidelines, competent authorities should also adjust their own approach to market surveillance taking into consideration the progress achieved in relation to e.g. data availability and development of new market surveillance tools.

4.2. General approach to prevent and detect market abuse under MiCA (Guideline 2)

4. Competent authorities' approach to supervision in relation to market abuse in crypto assets should be risk-based, which means that competent authorities are expected to prioritise and use their resources efficiently and commensurately with the level of risk identified.
5. When considering risks, competent authorities are expected to be forward-looking, by taking into consideration to the extent possible potential and emerging risks of market abuse.
6. Competent authorities are encouraged to monitor the crypto assets market in a way that enables them to respond to identified risks to market integrity without undue delay. In particular, competent authorities are expected to follow up on a detected threat to market integrity in a reasonable timeframe. Identified issues should not be left without a proper conclusion or action plan.
7. Where new risks to market integrity in crypto assets are identified, competent authorities should supplement, seek to expand, or adjust their supervisory strategy for cryptoassets and action as appropriate.

³⁶⁰ Maximum amount of value a blockchain miner or validator can make by changing the order of transactions during the block production

8. Competent authorities are encouraged to incorporate their objectives and priorities related to prevention and detection market abuse under MiCA in their supervisory strategy.

4.3. Integration of existing supervisory practices (Guideline 3)

9. Competent authorities are encouraged to integrate dedicated measures to prevent and detect market abuse in the crypto-assets markets into their existing supervisory practices. Before integrating new measures, competent authorities are encouraged to evaluate the extent to which practices already in place for the detection and prevention of market abuse concerning financial instruments may cover the specific forms of market abuse with respect to crypto assets, and adapt or extend them, as appropriate.
10. For example, competent authorities could include in their monitoring activity those manipulative practices that may stem from the specific technology behind crypto-assets (e.g. abusive MEV strategies) or the way they are offered or evaluated (e.g. token supply manipulation or – for stablecoins – the assessment of the backing assets).
11. In addition, competent authorities should consider monitoring social media on a best effort basis to cover information posted on crypto assets, given the higher risk of spreading false or misleading information that such media may pose in the crypto environment in comparison to traditional financial markets.
12. Similarly, with respect to insider dealing, competent authorities should take into consideration, in addition to the possession of inside information by a person having access to inside information through the exercise of an employment, profession or duties (e.g. employee in a CASP aware of the decision to list a new token on a trading platform), the possession of inside information by a person in relation to his/her role in the distributed ledger technology or similar technology (e.g. miners or validators conducting front running or influencing the flow of validated transactions).

4.4. Common supervisory culture to ensure market integrity under MiCA (Guideline 4)

13. Competent authorities should play an active role in building a common EU supervisory culture and consistent supervisory practices under MiCA.
14. To achieve this objective, competent authorities should share among them information to facilitate a common understanding of the market integrity risks posed by crypto assets, issuers, CASPs, and any other market participant.
15. Competent authorities should inform each other of the measures adopted to prevent and detect market abuse pursuant to these guidelines, and exchange on the best practices identified to ensure market integrity.
16. In addition, competent authorities are encouraged to share their direct experiences on supervision in the area of market abuse concerning crypto assets and to highlight the difficulties encountered, by presenting and discussing supervisory cases in the relevant ESMA groups.
17. As a result of such exchanges, competent authorities may also propose that ESMA adopt specific supervisory convergence tools to promote supervisory convergence across the EU.
18. To get a more comprehensive view on the crypto market participants and products and in compliance with the rules on professional secrecy, competent authorities may, on a voluntary basis, consider entering into dialogues and exchanges of experiences with other authorities (e.g. authorities responsible for consumer

protection or prevention and anti-money laundering authorities), when their supervisory activity appears to be connected to the crypto assets markets.

4.5. Adequacy of resources (Guideline 5)

19. To ensure the availability of sufficient resources to achieve their supervisory objectives, competent authorities are encouraged to have dedicated staff to carry out their functions and duties in the oversight of crypto asset markets.
20. To identify the resources and the staff needed to conduct detection and prevention of market abuse in crypto asset markets, competent authorities are encouraged to consider the following elements:
 - a) knowledge and competence of their staff with respect to the functioning of cryptoassets and the relevant technologies used (e.g. consensus mechanisms) as well as to the roles of participants in on-chain transactions;
 - b) the need for adequate tools specific to crypto assets market surveillance;
 - c) the need to carry out data driven market surveillance, in addition to event-based surveillance.
21. Competent authorities are encouraged to take part in initiatives for the ongoing training of the relevant staff.

4.6. Open dialogue with stakeholders about market integrity risks (Guideline 6)

22. To better comprehend technological developments and potential emerging market integrity risks with respect to crypto assets, competent authorities should proactively engage with stakeholders connected or associated with crypto asset markets, as well as experts, academics, relevant public advocacy groups, IT firms and data service providers and persons to whom the performance of tasks relating to prevention, monitoring, detection of potential market abuse has been outsourced to by PPAETs.
23. Competent authorities should take into consideration the outcome of such exchanges in the identification of emerging risks, new market abuse strategies, and in the development of potential solutions, including new tools to mitigate risks to market integrity with reference to crypto assets.

4.7. Initiatives to promote market integrity among market participants (Guideline 7)

24. To promote market integrity, competent authorities should consider adopting educational initiatives that increase awareness among market participants of the behaviours which may constitute market abuse and of the relevant sanctions. When providing the relevant information, competent authorities should use language that is adequate to the nature of the persons to which the initiatives are addressed.
25. Such initiatives could for example entail:
 - a) the use of the competent authorities' website, as well as other communication channels (e.g. social media, blogs, newsletters, and podcasts, where available), to explain which conduct may constitute market abuse and to provide relevant examples related to crypto assets;
 - b) regular trainings to market participants on compliance and prevention of market abuse under MiCA;
 - c) Q&As with informative purposes related to the prevention and detection of market abuse.

26. Competent authorities may develop the educational initiatives described in the present guideline autonomously or in collaboration with other competent authorities and ESMA, as appropriate.
27. To further promote prevention of market abuse, competent authorities should also consider opportunities of:
 - a) encouraging issuers, PPAETs and CASPs not falling under the PPAET category, to adopt best practices which go beyond legal requirements. For instance, competent authorities could suggest issuers to inform employees who have access to inside information about what actions could constitute insider dealing or unlawful disclosure of inside information and on the relevant consequences, or suggest operators of trading platform to inform their users about the behaviours which may constitute market abuse and of the relevant sanctions;
 - b) informing operators of trading platform for crypto assets of the need to upgrade and update their surveillance infrastructure to newly identified or emerging market manipulation risks; and
 - c) providing targeted guidance and feedback on compliance measures to be implemented by PPAETs.
28. The information provided in the context of educational or other initiatives by competent authorities under this guideline should not be qualified as legal advice or reduce the responsibility of the market participants with respect to their obligations under MiCA or any other applicable law or regulation.

4.8. Monitoring and surveillance by NCAs (Guideline 8)

29. To protect the integrity of crypto-asset markets, NCAs should conduct data driven market monitoring and surveillance, in collaboration with other competent authorities or, under their responsibility, by delegation to other authorities or service providers, as appropriate.
30. Competent authorities' market monitoring and surveillance activities should include publicly available data, regulatory data on orders and transaction obtained from CASPs, and to the extent possible, reconciliation of on-chain and off-chain and cross market data.
31. Competent authorities should also consider including in their market monitoring and surveillance activity any communications regarding crypto assets, including communications taking place on web-based platforms, social media and blogs, newsletters and podcasts, if they are used to disseminate information on crypto assets, adopting a risk-based approach (considering e.g. the subjects, number of users and accessibility).
32. In conducting on-going supervision on media, competent authorities may adopt automated monitoring that is able to identify patterns, keywords and trends, to be complemented by human analysis.

4.9. Supervision of PPAETs' arrangements, systems and procedures to prevent and detect market abuse (Guideline 9)

33. Competent authorities are expected to ensure that the PPAETs' arrangements, systems, and procedures to prevent and detect market abuse pursuant to Article 92(1) of MiCA and the RTS on STOR remain appropriate on an ongoing basis.
34. Adopting a risk-based approach to supervision, the frequency and the relevance of the competent authorities' supervisory actions should be proportionate and adequate to the scale, size and nature of the

APPENDIX 44: ESMA GUIDELINES ON SUPERVISORY PRACTICES FOR COMPETENT AUTHORITIES TO PREVENT AND DETECT MARKET ABUSE UNDER THE MARKETS IN CRYPTO ASSETS REGULATION (MICA)

business activity carried out by the PPAET, for example by making a distinction between CASPs operating a trading platform and CASPs only receiving, transmitting or executing orders on behalf of clients.

4.10. Reaction to a STOR (Guideline 10)

35. Competent authorities should adopt adequate and proportionate procedures to analyse the STORs received from PPAETs to ensure effective analysis and appropriate supervisory action. The above procedures should:
- a) clearly identify all the steps that the competent authorities should follow upon receipt of an STOR;
 - b) for each step, indicate the responsible unit/function within the competent authorities; and
 - c) provide the criteria for grading the behaviour reported through the STORs according to parameters such as severity and recurrence.
36. The actions adopted by competent authorities pursuant to the above procedure should be proportionate to the detected threat.

4.11. ESMA coordination (Guideline 11)

37. Competent authorities should consider requesting ESMA's coordination of inspections or investigations, in accordance with 95(5) of MiCA whenever, in a cross-border case:
- a) there is evidence or a suspicion that more than two competent authorities are competent for a case;
 - b) uncoordinated action may impair the final outcome of an investigation; or
 - c) uncoordinated action may lead to extra burden for market participants.

4.12. Third-country obstacles to the effective exercise of NCAs' supervisory functions for the detection of cross-border market abuse (Guideline 12)

38. A competent authority should inform the other relevant competent authorities and ESMA where, in the course of its supervisory activities, it identifies:
- a) CASPs whose business model might hinder the effective exercise of competent authorities' supervisory functions with respect to market abuse. An example could be where a CASP authorised to execute orders on behalf of clients sends a significant number of transactions to trading platforms outside of the EU, as this may prevent the use of STORs as a tool to combat market abuse. Where such CASPs are identified, competent authorities should strive to agree on a common approach to supervision in such cases;
 - b) any obstacles in its interactions with third-country competent authorities that might hinder the effective exercise of their supervisory functions in relation to market abuse.
39. When assessing whether there are potential obstacles to effective supervision, competent authorities should consider all relevant information, including:
- a) relevant laws, regulations or administrative provisions of a third country;
 - b) any difficulties involved in the enforcement of those laws, regulations or administrative provisions;
 - c) the possibility of exchanging information with the third-country competent authorities and any difficulties in obtaining information from them;

- d) the complexity and transparency of the structure of the group to which a supervised entity under MiCA belongs and of the persons having close links with an entity supervised under MiCA;
- e) the location or the activities performed by the entities that are members of the group to which an entity supervised under MiCA belongs, or of the persons having close links with an entity supervised under MiCA.

APPENDIX 45: EBA GUIDELINES ON TEMPLATES TO ASSIST COMPETENT AUTHORITIES IN PERFORMING THEIR SUPERVISORY DUTIES REGARDING ISSUERS' COMPLIANCE UNDER TITLES III AND IV OF REGULATION (EU) 2023/1114

(EBA/GL/2024/16 - 18/12/2024)

1. Compliance and reporting obligations

Status of these Guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³⁶¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities should comply with these guidelines by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 26.05.2025. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/16'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

2. Subject matter, scope and definitions

Subject matter

5. These Guidelines specify the content and uniform formats for the submission of information used by competent authorities when exercising their supervisory powers under Article 94(1)(a) and Titles III and IV of Regulation (EU) 2023/1114³⁶² and by the EBA when exercising its supervisory powers under Article 122 of that Regulation.

³⁶¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

³⁶² Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in cryptoassets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

Scope of application

6. These Guidelines apply in relation to the exercise of supervisory powers of competent authorities in the context of ensuring compliance of issuers of asset-referenced tokens (ARTs) and e-money tokens (EMTs) with the requirements set out in Titles III and IV of Regulation (EU) 2023/1114.

Addressees

7. These Guidelines are addressed to competent authorities as defined in Article 3(1), point (35), of Regulation (EU) 2023/1114. These Guidelines are also addressed to issuers of ARTs and issuers of EMTs.

Definitions

8. Unless otherwise specified, terms used and defined in Regulation (EU) 2023/1114 have the same meaning in the Guidelines.

3. Implementation

Date of application

9. These Guidelines apply from 26.05.2025.

4. Templates, frequency and format

4.1 Templates for issuers of ARTs and EMTs

Information to monitor compliance with the own funds requirements

10. For the purposes of monitoring compliance with the own funds requirements in accordance with Articles 35 and 58 of Regulation (EU) 2023/1114, issuers of ARTs and EMTs subject to own funds requirements should report to the competent authority the information laid down in templates S 09.01 and S 09.02 of Annex I, completed in accordance with the instructions set out in Annex II.

Information to monitor compliance with the reserve of assets and liquidity requirements as well as with the requirements applicable to the investment of the funds received in exchange of the EMTs

11. For the purposes of monitoring compliance with the reserve of assets and liquidity requirements in accordance with Articles 36, 37, 38 and 58 of Regulation (EU) 2023/1114:
 - a. issuers of ARTs, e-money institutions issuing significant EMTs and e-money institutions issuing non-significant EMTs that are required by the competent authority to have a reserve of assets should report to the competent authority the information on the market value, or, where applicable, on the amount of the assets, inflows and outflows per token as further specified by template S 03.03 of Annex I, completed in accordance with the instructions set out in Annex II;
 - b. in addition, issuers of EMTs denominated in a currency that is an official currency of a Member State subject to the requirement to hold a reserve of assets pursuant to Article 58(1) and (2) of Regulation (EU) 2023/1114 should report to the competent authority the information laid down in templates S

APPENDIX 45: EBA GUIDELINES ON TEMPLATES TO ASSIST COMPETENT AUTHORITIES IN PERFORMING THEIR SUPERVISORY DUTIES REGARDING ISSUERS' COMPLIANCE UNDER TITLES III AND IV OF REGULATION (EU) 2023/1114

03.01 and S 03.02 of Annex I to Commission Implementing Regulation (EU) 2024/2902³⁶³, completed in accordance with the instructions set out in Annex II to that Regulation.

12. For the purposes of monitoring compliance with the requirements applicable to the investment of funds received in exchange for EMTs in accordance with Article 54 of Regulation (EU) 2023/1114, issuers of EMTs not subject to the requirement to hold a reserve of assets should report to the competent authority the information laid down in template S 03.03 of Annex I, completed in accordance with the instructions set out in Annex II.

Information necessary for the significance assessment

13. For the purposes of ensuring that the competent authorities are able to provide to the EBA the relevant data to assess the significance criteria specified in Articles 43 and 56 of Regulation (EU) 2023/1114:
 - a. Issuers of ARTs and EMTs should report to the competent authority the information laid down in templates S 10.01, S 10.02 and S 10.03 of Annex I, completed in accordance with the instructions set out in Annex II.
 - b. In addition, issuers of EMTs denominated in a currency that is an official currency of a Member State should report to the competent authority the information laid down in templates S 01.00, S 02.00, S 04.01, S 04.02, S 04.03 and S 04.04 of Annex I to Commission Implementing Regulation (EU) 2024/2902, completed in accordance with the instructions set out in Annex II to that Regulation.
14. The information necessary for the significance assessment includes the information laid down in templates S 03.01 and S 03.02 of Annex I to Commission Implementing Regulation (EU) 2024/2902 and S 03.03 of Annex I to these Guidelines, completed in accordance with the instructions set out in Annex II to that Regulation and Annex II to these Guidelines.

Information necessary following the classification of an ART or EMT as significant

15. Following the notification of the EBA final decision on the significance assessment, and where the supervisory responsibilities regarding the issuer(s) of the ART or EMT are transferred to the EBA, the templates and instructions referred to in paragraphs 10, 11, 12 and 13 will be used by the EBA to collect the data necessary to supervise compliance with the own funds, reserve of assets and liquidity requirements and to carry out the annual reassessment of significance pursuant to Articles 43(8) and 56(8) of Regulation (EU) 2023/1114.

4.2 Proportionality, frequency and format

16. To ensure the proportional application of the Guidelines, competent authorities should collect the information laid down in templates S 01.00, S 02.00, S 03.01, S 03.02, S 04.01, S 04.02, S 04.03 and S 04.04 of Annex I to Commission Implementing Regulation (EU) 2024/2902 from issuers of EMTs denominated in a currency that is an official currency of a Member State, and in templates S 03.03, S 10.01, S 10.02 and S 10.03 of Annex I to these Guidelines from issuers of ARTs and EMTs with an issue value higher than EUR 100 000 000.

³⁶³ Commission Implementing Regulation (EU) 2024/2902 of 20 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to reporting related to asset-referenced tokens and to e-money tokens denominated in a currency that is not an official currency of a Member State (OJ L, 2024/2902, 28.11.2024).

17. Competent authorities may require issuers with an issue value of less than EUR 100 000 000 to report the data included in the templates mentioned in the previous paragraph. In such cases, issuers should use the same templates and instructions as laid down in Annexes I and II to these Guidelines and Annexes I and II to Commission Implementing Regulation (EU) 2024/2902.
 18. Issuers should submit the information laid down in paragraphs 10, 11, 12 and 13 of these Guidelines on a quarterly basis, on the following reference and remittance dates:
 - a. quarterly reporting reference dates: 31 March, 30 June, 30 September and 31 December;
 - b. quarterly reporting remittance dates: 12 May, 11 August, 11 November and 11 February.
 19. For the purposes of reporting according to paragraph 15, the information included in paragraphs 10, 11, 12 and 13 of these Guidelines will be submitted to the EBA on a quarterly basis, on the same reference and remittance dates as laid down in the previous paragraph.
 20. The first reference date for reporting of the information included in templates S 09.01 and S 09.02 of Annex I should be 30 June 2025.
 21. The first reference date for reporting of the information included in templates S 01.00, S 02.00, S 03.01, S 03.02, S 04.01, S 04.02, S 04.03 and S 04.04 of Annex I to Commission Implementing Regulation (EU) 2024/2902 for issuers of EMTs denominated in a currency that is an official currency of a Member State, and in templates S 03.03, S 10.01, S 10.02 and S 10.03 of Annex I to these Guidelines for issuers of ARTs and EMTs, should be the one corresponding to the quarter in which the issue value of the ART or EMT is higher than the threshold referred to in paragraph 16 or in which the competent authority has required issuers to report this information.
 22. By way of derogation from paragraph 18, the remittance date for the submission of the templates with reference date 30 June 2025 should be 1 September 2025.
 23. The last reference date should be the one corresponding to the third consecutive quarter in which the issue value of the asset-referenced token is lower than the threshold referred to in paragraph 16.
 24. Issuers should submit the information referred to in these Guidelines in the data exchange formats and representations specified by the competent authorities, and in accordance with the data point definition included in the data point model and the validation formulae specified in Annex V, as well as the following specifications:
 - a. Information that is not required or not applicable should not be included in a data submission.
 - b. Numeric values should be submitted as facts according to the following:
 - i. data points with the data type 'Monetary' should be reported using a minimum precision equivalent to ten thousands of units;
 - ii. data points with the data type 'Integer' should be reported using no decimals and a precision equivalent to units.
 - c. Competent authorities should require issuers of ARTs and EMTs to associate the data submitted in accordance with these Guidelines with the information listed and specified under paragraph 8 of Annex II.
- 4.3 Templates for collecting the necessary information from crypto-asset service providers

APPENDIX 45: EBA GUIDELINES ON TEMPLATES TO ASSIST COMPETENT AUTHORITIES IN PERFORMING THEIR SUPERVISORY DUTIES REGARDING ISSUERS' COMPLIANCE UNDER TITLES III AND IV OF REGULATION (EU) 2023/1114

25. For the purposes of the submission of the data points laid down in these Guidelines, issuers should require crypto-asset service providers (CASPs) that provide services related to ARTs and EMTs to provide them with the information necessary to prepare the submission of the data points referred to in these Guidelines.
26. To collect the necessary information from the relevant CASPs, issuers of EMTs denominated in a currency that is an official currency of a Member State should provide them with the following templates and instructions:
 - a. templates S 06.01 and S 06.02 of Annex III, and related instructions as specified in Annex IV;
 - b. templates S 07.01, S 07.02, S 07.04 and S 08.00 of Annex III to Commission Implementing Regulation (EU) 2024/2902, and related instructions as specified in that Regulation.
27. In addition, issuers of ARTs and EMTs should provide the relevant CASPs with template S 07.05 of Annex III, and related instructions as specified in Annex IV.

Annex I – Templates for issuers of ARTs and EMTs

Annex II – Instructions for issuers of ARTs and EMTs

Annex III – Templates for CASPs

Annex IV – Instructions for CASPs

Annex V – DPM and validation rules

APPENDIX 46: EBA GUIDELINES ON THE MINIMUM CONTENT OF THE GOVERNANCE ARRANGEMENTS FOR ISSUERS OF ASSET-REFERENCED TOKENS

(EBA/GL/2024/06 - 06/06/2024)

Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³⁶⁴. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities as defined in Article 3(1) point (35)(a) of Regulation (EU) 2023/1114 to whom guidelines apply and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g., by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at financial institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 20.11.2024. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/06'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

Subject matter

5. These guidelines specify in accordance with Article 34(13) of Regulation (EU) 2023/1114 the minimum content of the governance arrangements for issuers of ARTs in particular regarding the monitoring tools for the risks³⁶⁵; the business continuity plans; the internal control mechanism; and the audits, including the minimum documentation to be used in the audits.

Scope of application

6. These Guidelines apply at authorisation and on an ongoing basis to competent authorities, as defined in Article 3(1) point (35) (a) of Regulation (EU) 2023/1114, and to issuers of ARTs.
7. The guidelines apply to all issuers of ARTs, independently of their existing board structures.

³⁶⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

³⁶⁵ Any reference to risks in these guidelines should include all risks to which issuers of ARTs are or may be exposed, including money laundering and terrorist financing risks.

- 8. Any reference to management body also includes issuers of ARTs that are legal persons managed by a single natural person.
- 9. Issuers of ARTs should comply and competent authorities should ensure that issuers of ARTs comply with these guidelines, including, where applicable, on a group wide basis.

Addressees

- 10. These Guidelines are addressed to competent authorities as defined in Article 3(1), point (35)(a) of Regulation (EU) 2023/1114.
- 11. These Guidelines are also addressed to issuers of ARTs as defined in Article 3(1), point 10 of Regulation (EU) 2023/1114, of ARTs as defined in Article 3(1), point 6 of that Regulation. Where the issuer of ARTs is a credit institution, it should comply with Title I, Title V Sections 12, 12.1, 12.2, 12.3 and Title VI and Title VII in conjunction with the requirements set out under Directive 2013/36/EU and the EBA guidelines on internal governance³⁶⁶.

Definitions

- 12. Unless otherwise specified, terms used and defined under Regulation (EU) 2023/1114, Directive 2014/65/EU, the 'EBA guidelines on internal governance arrangements for investment firms under IFD³⁶⁷ ' and Regulation (EU) 2022/2554, have the same meaning in these guidelines. In addition, for the purposes of these guidelines, the following definitions apply:

Management body in its management function	means, the management body acting in its role of directing effectively the issuer of ARTs and includes the persons who direct its business.
Management body in its supervisory function	means, where established, the management body acting in its role of overseeing and monitoring management decisionmaking.
Group	means a group as defined in Article 2 (11) if Directive 2013/34/EU ³⁶⁸ .
Operational risk	means the operational risk as set out in Article 4(1)(52) of Regulation (EU) 575/2013.
Operational resilience	means the ability for an issuer of ARTs to deliver critical or important functions through disruption.

Implementation

Date of application

- 13. These Guidelines apply from 20.12.2024.

³⁶⁶ Guidelines on internal governance under Directive 2013/36/EU
³⁶⁷ Guidelines on internal governance under Directive (EU) 2019/2034
³⁶⁸ Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings

4. Guidelines

Title I - Application of the proportionality principle

14. Issuers of ARTs and competent authorities should have regard to the principle of proportionality when applying and implementing these guidelines with a view to ensuring that the governance arrangements are consistent with the individual risk profile of the issuer of ARTs and the group, where applicable, commensurate with its size and internal organisation, relevant to its business model, suitable for the nature, scale and complexity of its activities and sufficient to effectively achieve the objectives of the relevant regulatory requirements and provisions.
15. For the purpose of applying the principle of proportionality and to ensure the appropriate implementation of the governance requirements of Regulation (EU) 2023/1114 as further specified by these Guidelines, issuers of ARTs and competent authorities should take into account the following criteria:
 - a. the size of the issuer of ARTs in terms of the balance sheet total;
 - b. the legal form of the issuer of ARTs;
 - c. whether the issuer of ARTs is listed or not;
 - d. the classification of the asset-referenced token issued as significant or non-significant pursuant to Articles 43 and 44 and Articles 56 and 57 of Regulation (EU) 2023/1114
 - e. the specifics, volume and number of ARTs issued;
 - f. whether the ARTs issued are admitted to trading;
 - g. the consensus mechanism used to issue and validate the ARTs;
 - h. the nature and complexity of all business activities;
 - i. the type of authorised activities and the services performed;
 - j. whether cross borders activities are provided and the size of the operations in each jurisdiction;
 - k. the size of the reserve of assets;
 - l. the type and complexity of the assets a token is referenced to;
 - m. whether the holders of ART are retail holders or not;
 - n. the use of third-party service providers;
 - o. the distribution channels used, including the ones provided by third-party service providers; and
 - p. the existing information and communication technology (ICT) systems, including business continuity measures and the use of ICT third-party entities as referred to in paragraph 5, first subparagraph, point (h), Article 34 of Regulation (EU) 2023/1114.
16. Issuers of ARTs that are managed by a single natural person should have alternative arrangements in place which ensure the sound and prudent management of such issuers and the adequate consideration of governance arrangements including by providing for adequate checks and balances in decision making.

Title II – Role and composition of the management body

1. Role and responsibilities of the management body

17. In accordance with Article 34 of Regulation (EU) 2023/1114, the management body of an issuer of ARTs must define, oversee and is accountable for the implementation of sound governance arrangements that ensure effective and prudent management of the issuer and the interest of holders of ART including the segregation of duties and the identification, prevention and management of conflicts of interest within the issuer of ARTs in accordance with Article 32 of Regulation (EU) 2023/1114.
18. The duties of the management body should be clearly defined, distinguishing, where applicable, between the duties of the management (executive) function and of the supervisory (nonexecutive) function. The responsibilities and duties of the management body should be described in a written document and duly approved by the management body. All members of the management body should be fully aware of the structure and responsibilities of the management body and, where applicable, of the division of tasks between different functions of the management body.
19. Where applicable, the management body in its supervisory function and its management function should interact effectively. Both functions should provide each other with sufficient information to allow them to perform their respective roles. To have appropriate checks and balances in place, decision-making within the management body should not be dominated by a single member or a small subset of its members.
20. The management body's responsibilities should include at least setting, approving, and overseeing the implementation of:
 - a. the overall business strategy and the key policies of the issuer within the applicable legal and regulatory framework, taking into account the issuer's long-term financial interests and solvency and interest of the holders of ARTs.
 - b. the policies required under Article 34(5) of Regulation (EU) 2023/1114; such policies should be consistent with the risk appetite and tolerance of the issuer and the characteristics, the needs of the clients of the issuer of ARTs to whom they will be offered and their prospective holders;
 - c. the organisation of the issuer for the issuance of ARTs specifying the skills, knowledge and expertise required by staff and the necessary resources;
 - d. the overall risk strategy, the issuer's risk appetite and its risk management framework, including adequate policies and procedures, taking into account the macroeconomic environment and the business cycle, and specifying the involvement of the management body in risk management issues;
 - e. an adequate and effective internal control framework including a risk management framework and well-functioning internal control mechanisms to ensure compliance with applicable regulatory requirements including with regard to the management of reserve of assets;
 - f. a remuneration policy for issuers of significant ARTs that is in line with Article 45(1) of Regulation (EU) 2023/1114³⁶⁹; g. the policies and procedures to identify, prevent, manage and disclose conflicts of interest, in line with Article 32 of Regulation (EU) 2023/1114³⁷⁰;

³⁶⁹ See the RTS on the minimum content of the governance arrangements on the remuneration policy for issuers of significant ARTs in accordance with Article 45(7)(a) of Regulation (EU) 2023/1114.

³⁷⁰ See the RTS on conflict of interests under Article 32(5) of Regulation (EU) 2023/1114

- h. arrangements that aim to ensure that the individual and collective suitability assessments of the management body are carried out effectively, that the composition of the management body is appropriate, and that the management body performs its functions effectively;
 - i. a risk culture in line with Title IV Section 7 which addresses the issuer of ARTs' risk awareness and risk-taking behaviour;
 - j. a corporate culture and values in line with Title IV Section 8 which foster responsible and ethical behaviour, including a code of conduct or similar instrument;
 - k. arrangements that aim to ensure the integrity of the accounting and financial reporting systems, including financial and operational controls and compliance with the law and relevant standards.
21. When setting up, approving and overseeing the implementation of the aspects listed in paragraph 20, the management body should ensure that the business model and governance arrangements take into account all risks the issuer of ARTs is or might be exposed to and the risks that they pose or might pose to others and to the environment. For that purpose, issuers of ARTs should also take into account all relevant risk factors, including environmental, social and governance risks factors (ESG) and consider the climate and other environmental impacts caused by the energy consumption of the consensus and validation mechanisms used. Other ESG risk factors that should be considered include legal risks in the area of contractual or labour law, risks relating to potential human rights violations or other ESG risk factors that may affect the country where a third-party service provider is located and its ability to provide the agreed service levels.
22. The management body should oversee the process of disclosure, in particular as mandated by Article 30 of Regulation (EU) 2023/1114, and communications with external stakeholders and competent authorities.
23. All members of the management body should be informed about the overall activity, financial and risk situation of the issuer of ARTs, taking into account the economic environment and business cycle, and also about any decisions taken that have a major impact on the issuance of ARTs or other material business activities.
24. A member of the management body may be responsible for an internal control function as referred to in Title V, provided that the member does not have other mandates that would compromise the member's internal control activities and the independence of the internal control function.
25. The management body should monitor, periodically review and address any weaknesses identified regarding the implementation of processes, strategies and policies relating to the responsibilities listed in this section. The governance framework and its implementation should be reviewed and updated on a periodic basis, taking into account the proportionality principle, as further specified in Title I. A deeper review should be carried out where material changes affect the issuer of ARTs.
26. Where the issuers of ARTs are legal persons managed by a single natural person in accordance with their constitutive rules and national laws, the references in these guidelines to a management body should be construed as applying to the single person that is responsible for implementing alternative arrangements to ensure the sound and prudent management of such an issuer and the adequate consideration of governance arrangements.

2. Management function of the management body

27. The management body in its management function should actively engage in the business of the issuer of ARTs and should take decisions on a sound and well-informed basis.
28. The management body in its management function, should be responsible for the implementation of the strategies and policies set out by the management body and regularly discuss the implementation and appropriateness of these strategies and policies with the management body in its supervisory function. The operational implementation may be carried out by the issuers of ARTs ' management body.
29. Members of the management body in its management function should constructively challenge and critically review propositions, explanations and information received by the staff when exercising its judgement and taking decisions.
30. Where applicable, the management body in its management function, should regularly, timely and comprehensively inform and report to the management body in its supervisory function all relevant information necessary to perform their duties, including the risks and other developments affecting the business of the issuer of ARTs, e.g. material decisions on business activities, its organisation and underlying technologies, risks taken and compliance with the risk appetite and strategy, ML-TF risks, ICT incidents and reporting, material operational risk losses, liquidity and reserve of assets and their management.

3. Supervisory function of the management body

31. Without prejudice to the responsibilities assigned under the applicable national company law, the management body in its supervisory function should:
 - a. oversee and monitor management decision-making and actions and provide effective oversight of the management body in its management function, including monitoring and scrutinising its individual and collective performance and the setting and implementation of the issuer of ARTs' strategy and objectives;
 - b. constructively challenge and critically review proposals and information provided by members of the management body in its management function, as well as its decisions;
 - c. ensure and periodically assess the effectiveness of the issuers of ARTs' governance framework and take appropriate steps to address any identified deficiencies;
 - d. oversee and monitor that the issuer's strategic objectives, organisational structure and risk strategy, its risk appetite and risk management framework, as well as other policies (e.g. investment policy on the reserve of assets) are implemented consistently;
 - e. monitor that the risk culture of the issuer of ARTs is implemented consistently;
 - f. oversee the implementation, the update and the effective application of policies and procedures to identify, prevent, manage and disclose conflicts of interest, in accordance with Article 32 of Regulation (EU) 2023/1114;³⁷¹
 - g. oversee the integrity of financial information and reporting, and the internal control framework, including an effective and sound risk management framework;
 - h. ensure that the heads of internal control functions are able to act independently and, regardless of the responsibility to report to other internal bodies, business lines or units, can raise concerns and

³⁷¹ See the RTS on conflict of interests under Article 32(5) of Regulation (EU) 2023/1114.

warn the management body in its supervisory function directly, where necessary, when adverse risk developments affect or may affect the issuer of ARTs; and

- i. set and monitor the implementation of the internal audit plan.

Title III – Governance framework

4. Organisational framework and structure

4.1 Organisational framework

32. The management body of an issuer of ARTs should ensure a suitable and transparent organisational and operational structure for that issuer of ARTs and should have a written description of it. The structure should promote and demonstrate the effective and prudent management of the issuer of ARTs and the group, where applicable.
33. The management body should ensure that the internal control functions have the appropriate financial and human resources as well as powers to effectively perform their role. As a minimum, the compliance function should operate independently, including that there is an appropriate segregation of duties. The reporting lines and the allocation of responsibilities should be clear, well-defined, coherent, enforceable and duly documented. The documentation should be updated as appropriate.
34. The structure of the issuer of ARTs should not impede the ability of the management body to oversee and effectively manage its risks or the group, where applicable, is exposed to or the ability of the competent authority to effectively supervise the issuer of ARTs.
35. The management body should assess whether and how material changes to the group's structure where applicable (e.g. setting up of new subsidiaries, mergers and acquisitions, selling or winding-up parts of the group, or external developments) impact on the soundness of the ART issuer organisational framework. Where weaknesses are identified, the management body should make any necessary adjustments swiftly.

4.2 Know your structure

36. The management body should fully know and understand the legal, organisational and operational structure of the issuer of ARTs ('know your structure') and ensure that it is in line with its approved business and risk strategy and risk appetite and covered by its risk management framework.
37. The management body should ensure that the structure of an issuer of ARTs and, where applicable, the structures within a group are clear, efficient and transparent to the staff, shareholders and other stakeholders and to the competent authority.
38. The management body should guide the issuer of ARTs' structure, its evolution and its limitations and should ensure that the structure is justified and efficient and does not involve undue or inappropriate complexity.
39. When setting up such structures, the management body should understand them and their purpose and the particular risks associated with them and ensure that the internal control functions are appropriately involved. Such structures should be approved and maintained only when their purpose has been clearly defined and understood, and when the management body is satisfied that all material risks, including reputational risks, have been identified, that all risks can be managed effectively and appropriately reported, and that effective oversight has been ensured. The more complex the organisational and

operational structure, and the greater the risks, the more intensive the oversight of the structure should be.

40. Issuer of ARTs should take into account in their decision-making the results of a risk assessment performed to identify whether such structures could be used for a purpose connected with ML/TF or other financial crime to ensure that the issuer or the sector is not exposed to serious risk of ML/TF. To this end, issuers of ARTs should take into account as a minimum:
 - a. the extent to which the jurisdiction, in which the structure will be set up complies effectively with EU and international standards on tax transparency, anti-money laundering and countering the financing of terrorism;
 - b. the extent to which the structure serves an obvious economic and lawful purpose;
 - c. the extent to which the structure could be used to hide the identity of the ultimate beneficial owner;
 - d. the extent to which the reason that leads to the possible setting-up of a structure gives rise to concern;
 - e. whether the structure might impede appropriate oversight by the ART issuer's management body or the issuer's ability to manage the related risk; and
 - f. whether the structure poses obstacles to effective supervision by competent authorities.
41. In any case issuers of ARTs should not set up opaque structures or unnecessary complex structures that have no clear economic rational or legal purpose, or structures that could raise concerns that these might be created for a purpose connected with financial crime.
42. Issuers of ART should document their decisions and be able to justify their decisions to competent authorities.
43. These structures and activities, including their compliance with legislation and professional standards, should be subject to a regular review. Where an internal audit function is established, it should perform the review on a risk-based approach.

5. Organisational framework in a group context

44. Where applicable, issuers of ARTs should ensure that governance arrangements, processes and mechanisms are consistent and well-integrated on a group wide basis. To this end, issuers of ARTs should ensure that their subsidiaries subject to Regulation (EU) 2023/1114 should implement similar arrangements, processes and mechanisms to ensure robust governance arrangements on a group wide basis. Competent functions within an issuer of ARTs and its subsidiaries subject to Regulation (EU) 2023/1114 should interact and exchange data and information as appropriate.
45. While policies and documentation may be included in separate documents, issuers of ARTs should consider combining them or referring to them in a single governance framework document.

6. Outsourcing³⁷²

³⁷² This section should be read in conjunction with Section 12.3 of these guidelines where applicable. Issuers of ARTs should refer, to the extent applicable, to the EBA guidelines on outsourcing, taking into account the application of the principle of proportionality.

46. The management body should approve and regularly review and update the outsourcing policy of an issuer of ARTs, ensuring that appropriate changes are implemented in a timely manner.
47. The outsourcing policy should consider the impact of the use of the outsourcing on an issuer of ARTs' business and the risks it faces (such as operational risks, including legal, reputational risks, and concentration risks).
48. The policy should include the reporting and monitoring arrangements to be implemented from inception to the end of outsourcing arrangements (including the due diligence process and risk assessment, the management and the monitoring of the arrangement, the termination, contingency plans and exit strategies).
49. The outsourcing of functions cannot result in the delegation of the management body's responsibilities. An issuer of ARTs remains fully responsible and accountable for all outsourced services and activities and management decisions arising from them. Accordingly, the outsourcing policy should make it clear that outsourcing does not relieve the issuer of ARTs of its legal and regulatory obligations.
50. The policy should state that outsourcing arrangements, should not hinder effective on-site or off-site supervision of the issuer of ARTs and should not contravene any supervisory restrictions on services and activities. The policy should also cover intragroup outsourcing arrangements and take into account any specific group circumstances where appropriate.
51. Issuers of ARTs should maintain at all times sufficient substance and not become 'empty shells' or 'letter-box entities'. To this end, they should: a. meet all the conditions of their authorisation at all times, including the management body effectively carrying out its responsibilities as set out in Section I of these guidelines; b. retain a clear and transparent organisational framework and structure that enables them to ensure compliance with legal and regulatory requirements as referred to Section 4; c. where operational tasks of internal control functions are outsourced, exercise appropriate oversight and be able to manage the risks that are generated by the outsourcing of critical or important functions; and d. have sufficient resources and capacities to ensure compliance with points (a) to (c).

Title IV – Risk culture and business conduct

7. Risk culture

52. A sound, diligent and consistent risk culture should be a key element of issuers of ARTs effective risk management and should enable these issuers to make sound and informed decisions that are consistent with their risk strategy and risk appetite.
53. Issuers of ARTs should develop an integrated and enterprise wide risk culture, based on a full understanding and holistic view of the risks they are or might be exposed to, including ESG risks, the risks to holders of assets, to markets, operational risks, ML-FT risks, liquidity risks and the risks linked to the investment of the assets of the reserve, the risk to the issuer of ARTs itself and how they are managed, taking into account the issuer of ARTs' risk tolerance, and the conflicts of interest that may arise due to the interconnectedness of players in the crypto ecosystem.
54. Issuers of ARTs should develop a risk culture through policies, communication and staff training regarding the issuer of ARTs' activities, strategy and risk profile, and should adapt communication and staff training to take into account staff's responsibilities regarding risktaking and risk management.
55. Staff should be fully aware of their responsibilities relating to risk management. Risk management should not be confined to risk specialists or internal control functions. Business lines or units, under the oversight

of the management body, should be primarily responsible for managing risks on a day-to-day basis in line with the issuers of ARTs' policies, procedures and controls, taking into account the issuer of ARTs' risk tolerance and appetite.

56. A strong risk culture should include but is not necessarily limited to:

- a. Tone from the top: the management body should be responsible for setting and communicating the issuer's core values and expectations. The behaviour of its members should reflect these values. The management body should contribute to the internal communication of core values and expectations to staff. Staff should act in accordance with all applicable laws and regulations and promptly escalate observed non-compliance within or outside the issuer (e.g. to the competent authority through a whistleblowing process).
- b. Accountability: relevant staff at all levels should know and understand the core values of the issuer of ARTs and, to the extent necessary for their role and its risk tolerance and appetite. They should be capable of performing their roles and be aware that they will be held accountable for their actions in relation to the issuer of ARTs' risk-taking behaviour.
- c. Effective communication and challenge: a sound risk culture should promote an environment of open communication and effective challenge in which decisionmaking processes encourage a broad range of views, allow for testing of current practices, stimulate a constructive critical attitude among staff and promote an environment of open and constructive engagement throughout the entire organisation.
- d. Incentives: appropriate incentives should play a key role in aligning risk-taking behaviour with the issuer of ARTs' risk profile and its long-term interests in particular for issuers of significant ARTs.

8. Corporate values and code of conduct

57. The management body should develop, adopt, adhere to and promote high ethical and professional standards, taking into account the specific needs and characteristics of the issuer of the ARTs, and should ensure the implementation of such standards (through a code of conduct or similar instrument). It should also oversee the adherence to these standards by staff. Where applicable, the management body may adopt and implement the issuer of ARTs group-wide standards or common standards released by associations or other relevant organisations.
58. Issuers of ARTs should ensure that there is no discrimination towards staff based on gender, race, colour, ethnic or social origin, genetic features, languages, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.
59. The policies of issuers of significant ARTs should be gender-neutral³⁷³. This includes, but is not limited to, remuneration, recruitment policies, career development and succession plans, access to training and the ability to apply for internal vacancies. Issuers of ARTs should ensure equal opportunities³⁷⁴ for all staff irrespective of their gender, including with regard to career perspectives, and aim to improve

³⁷³ See the RTS on the minimum content of the governance arrangements on the remuneration policy for issuers of significant ARTs in accordance with Article 45(7)(a) of Regulation (EU) 2023/1114;

³⁷⁴ See also Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

representation of the underrepresented gender in positions within the management body. Issuer of significant ARTs should monitor the trend in the gender pay gap.

60. The standards implemented should aim to enhance the issuer of ARTs' robust governance arrangements and reducing the risk to which the firm is exposed, in particular operational and reputational risks, which can have a considerable adverse impact on an issuer of ARTs profitability and sustainability through fines, litigation costs, restrictions imposed by competent authorities, other financial and criminal penalties, and the loss of brand value and investor confidence.
61. The management body should have clear and documented policies for how these standards should be met. These policies should:
 - a. remind staff that all the issuer's of ARTs activities should be conducted in compliance with the applicable law and with the issuer's corporate values;
 - b. promote risk awareness through a strong risk culture in line with Title IV, Section 7, conveying the management body's expectation that activities will not go beyond the defined risk appetite and limits defined by the issuer of ARTs and the respective responsibilities of staff;
 - c. set out principles on and provide examples of acceptable and unacceptable behaviours linked in particular to financial misreporting and misconduct, economic and financial crime including but not limited to fraud, money laundering and terrorist financing (ML/TF), anti-trust practices, financial sanctions, bribery and corruption, market manipulation, mis-selling and other violations of consumer protection laws, tax offences, whether committed directly or indirectly;
 - d. clarify that in addition to complying with legal and regulatory requirements and internal policies, staff are expected to conduct themselves with honesty and integrity and perform their duties with due skill, care and diligence; and
 - e. ensure that staff are aware of the potential internal and external disciplinary actions, legal actions and sanctions that may follow misconduct and unacceptable behaviours.
62. Issuers of ARTs should monitor compliance with such standards and ensure staff awareness, e.g., by providing training.

Title V – Internal control framework and mechanisms

9. Internal control framework

63. Issuers of ARTs should develop and maintain a culture that encourages a positive attitude towards risk control and compliance within the issuer and a robust and comprehensive internal control framework. Under this framework, issuers of ARTs business lines or internal unit should be responsible for managing the risks they incur in conducting their activities and should have controls in place that aim to ensure compliance with internal and external requirements. As part of this framework, issuers of ARTs should have a permanent and effective internal compliance function with appropriate and sufficient authority, stature and access to the management body to fulfil its mission, and a risk management framework. Where proportionate, taking into account the criteria listed in Title I, issuers of ART should also have an internal risk management and audit function. In any case, the issuer of ARTs should have appropriate risk management and audit policies and procedures in place.
64. The internal control framework of the issuers of ARTs concerned should be adapted on an individual basis to the specificity of its business, its complexity and the associated risks, taking into account, where

applicable, the group context. Within a group context, the issuer of ARTs concerned should organise the exchange of the necessary information in a manner that ensures that each management body, business line and internal unit, including each internal control function, is able to carry out its duties.

65. The internal control framework should cover the whole organisation, including the management body's responsibilities and tasks, and the activities of all business lines and internal units, including internal control functions, the use of third-party providers and distribution channels.
66. The internal control framework of an issuer of ARTs should ensure:
 - a. effective and efficient operations including with regard to issuance of ARTs;
 - b. adequate identification, measurement and mitigation of risks including operational risk and risk related to ICT in accordance with Regulation (EU) 2022/2554;
 - c. the reliability of financial and non-financial information reported both internally and externally;
 - d. sound administrative and accounting procedures; and
 - e. compliance with laws, regulations, supervisory requirements and the issuer of ARTs internal policies, processes, rules and decisions.

10. Implementing an internal control framework

67. The management body should be responsible for establishing and monitoring the adequacy and effectiveness of the internal control framework, processes and mechanisms, and for overseeing all business lines and internal units, including internal control functions (such as compliance, risk management and internal audit functions where established). Issuer of ARTs should establish, maintain and regularly update adequate written internal control policies, mechanisms and procedures, which should be approved by the management body. Where no risk management function is established, the management body should be responsible for establishing, updating and monitoring adequate risk management procedures and policies.
68. An issuer of ARTs should have a clear, transparent and documented decision-making process and a clear allocation of responsibilities and authority within its internal control framework, including its business lines, internal units and internal control functions.
69. Issuers of ARTs should communicate these policies, mechanisms and procedures to all staff and every time material changes have been made.
70. The internal control functions should verify that the policies, mechanisms and procedures set out in the internal control framework are correctly implemented in their respective areas of competence.
71. Internal control functions should regularly submit to the management body written reports on major deficiencies that have been identified. These reports should include, for each new major deficiency identified, the relevant risks involved, an impact assessment, recommendations and corrective measures to be taken. The management body should follow up on the findings of the internal control functions in a timely and effective manner and require adequate remedial actions. A formal follow-up procedure on findings and corrective measures taken should be put in place.

11. Risk management framework

72. As part of the overall internal control framework, issuers of ARTs should have a holistic issuerwide risk management framework extending across all their business lines and internal units, including internal control functions, recognising fully the economic substance of all their risk exposures including the risks the issuer of ARTs poses to itself, the holders of assets, operational risks and risks resulting from the reserve of assets.
73. The risk management framework should enable the issuer of ARTs to make fully informed decisions on all risks they are or might be exposed to including ICT risks in accordance with Regulation (EU) 2022/2554 (DORA)³⁷⁵ and Section 12. The risk management framework should encompass all risks, including actual risks and future risks that the issuer of ARTs may be exposed to. Risks should be evaluated from the bottom up and from the top down, within and across business lines or internal units using consistent terminology and compatible methodologies throughout the issuer of ARTs and at a consolidated level where applicable. All relevant risks should be encompassed in the risk management framework with appropriate consideration given to both financial and non-financial risks, including concentration, operational, ICT, reputational, legal, conduct and ESG risks. Consideration should also be given to credit risk, market risk, concentration risk and liquidity risk resulting from the reserve assets.
74. An issuer of ARTs risk management framework should include policies, procedures, risk limits and risk controls ensuring adequate, timely and continuous identification, measurement or assessment, monitoring, management, mitigation and reporting of the risks at the business line, internal units, issuer and group level, where applicable.
75. An issuer of ARTs risk management framework should provide specific guidance on the implementation of risk strategies. This guidance should, where appropriate, establish and maintain internal limits consistent with the issuer's risk tolerance, risk appetite and be commensurate with its sound operation, operational resilience, financial strength, liquidity needs and strategic goals. An issuer of ARTs's risk profile should be kept within the established limits. The risk management framework should ensure that, whenever breaches of risk limits occur, there is a defined process to escalate and address them with an appropriate follow-up procedure.
76. The risk management framework should be subject to independent internal review, e.g., performed by the internal audit function, and reassessed regularly against the issuer of ARTs risk tolerance and risk appetite.
77. Regular and transparent reporting mechanisms should be established so that the management body and all relevant units in the issuer of ARTs are provided with reports in a timely, accurate, concise, understandable and meaningful manner and can share relevant information about the identification, measurement or assessment, monitoring and management of risks. The reporting framework should be well defined and documented.
78. Effective communication and awareness regarding risks and the risk strategy is crucial for the whole risk management process, including the review and decision-making processes, and helps preventing decisions that may unknowingly increase risk levels. Effective risk reporting involves sound internal consideration and the communication of the risk strategy and relevant risk data both horizontally across the issuer of ARTs and up and down the management chain.

12. Operational risk management and operational resilience

³⁷⁵ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector: Publications Office (europa.eu)

79. An issuer of ARTs should have an adequate operational risk management framework and operational resilience framework. This includes effective policies and processes to:
- a. identify, assess, evaluate, monitor, report and mitigate operational risk on a timely basis; and
 - b. identify and protect themselves from threats and potential failures, respond and adapt to, as well as recover and learn from, disruptive events to minimise their impact on delivering critical or important functions³⁷⁶.
80. An issuer of ARTs management body should, as part of the risk management framework, approve strategies, policies and processes for the management of operational risk and operational resilience, including the risk appetite for operational risk framework and the risk tolerance for disruption of critical or important functions³⁷⁷. Those strategies, policies and processes should be periodically reviewed and updated as appropriate.
81. The management body ensures that these policies and processes are implemented effectively, fully integrated into the issuer of ARTs' overall risk management framework, including the risk in relation of the use of third-party entities, and effectively communicated to relevant staff.
82. An issuer of ARTs should clearly assign the responsibilities for the assessment and management system for operational risk and operational resilience.
83. An issuer of ARTs should identify its exposures to operational risk, track relevant operational risk data, including material loss data, and perform scenario-analysis.
84. Issuer of ARTs should identify its critical operations, consistently with its operational resilience approach, and map the people, technology, processes, data, facilities, third-parties, including intragroup entities, and the interconnections and interdependencies among them that are necessary for the delivery of critical or important functions in a business-as-usual situation and through disruption.
85. The operational risk and operational resilience management framework should be subject to regular reviews performed by internal or external auditors that possess the knowledge necessary to carry out such reviews. The operational risk management framework and the operational resilience framework should be structured with sufficient and adequate human and technical resources. The issuer of ARTs' operational risk assessment system and operational resilience framework should be fully integrated into the risk management framework of the issuer.
86. A system of reporting to management body that provides for adequate operational risk and operational resilience reports from relevant functions within the issuer of ARTs should be implemented. The issuer of ARTs should have in place procedures for taking appropriate actions without delay, as relevant.
87. The issuer of ARTs should identify and assess the operational risk inherent to the issuer of ARTs activities, processes and systems to make sure the inherent risks are well understood.
88. Considering Title I on the application of the principle of proportionality, issuer of ARTs should identify, analyse and measure a range of scenarios, including low probability and high severity events, some of which could result in severe operational risk losses. Inputs to the scenario analysis include relevant internal and external loss data, information from self-assessments, expert opinion, the internal control framework,

³⁷⁶ BCBS Principles for Operational Resilience, March 2021, <https://www.bis.org/bcbs/publ/d516.pdf>

³⁷⁷ Tolerance for disruption is the level of disruption from any type of operational risk an issuer is willing to accept given a range of severe but plausible scenarios.

forward-looking metrics, root-cause analyses and the process framework, as appropriate. The scenario analysis process should be used to develop a range of consequences of potential events, including impact assessments for risk management purposes, supplementing other tools based on historical data or current risk assessments.

89. Considering Title I, issuers of ARTs may use qualitative risk assessment approaches, while issuers of significant ARTs should have a more sophisticated approach, including, where available, the use of internal and external loss data to inform the scenario analysis.

12.1 New product, system and process approval

90. The issuer of ARTs should have policies and procedures for the assessment and approval of new products, processes, and systems, including on the new issuance of ARTs and related processes and systems.
91. The approval process should consider all the risks, including legal and ICT risks, in the launch of new products and in the implementation of new processes and systems, and include risks related to people, processes, systems and external events.
92. The approval process should also consider effects on the delivery of critical or important functions and on their interconnections and interdependencies as well as changes to the issuers of ARTs' operational risk profile, including changes to the risk related to existing products or activities, the necessary internal controls, risk management processes, and risk mitigation.
93. The issuer of ARTs should ensure the assessment of the evolution of risks associated with new products, systems and processes over time throughout the full life cycle of a product, activities or services.
94. The issuers of ART should have a strong internal control system in accordance with Title V also with regard to new products, processes and systems to ensure that the issuer of ARTs has efficient and effective operations; safeguard its reserve of assets; produce reliable information and comply with applicable laws and regulations.

12.2 ICT risk management

95. Issuers of ARTs should establish an ICT risk management framework in line with the requirements defined under Regulation (EU) 2022/2554. In this regard, issuers of ARTs should have in place an internal governance and control framework that ensures an effective and prudent management of ICT risks in order to achieve a high level of digital operational resilience.³⁷⁸

12.3 Arrangements with third-party entities for operating the reserve of assets, for the investment of the reserve assets, the custody of the reserve assets, or the distribution of the assetreferenced tokens to the public

96. The management body of an issuer of ARTs that has arrangements in place with third-party entities for operating the reserve of assets, for the investment of the reserve assets, the custody of the reserve assets, or, where applicable, for the distribution of the asset-referenced tokens to the public or plans on entering into such arrangements should approve, regularly review and update a policy on the requirements for operational reliance of these third-party entities and ensure their implementation at an individual and, as applicable, group wide basis.

³⁷⁸ Please refer to Regulation (EU) 2022/2554, OJ L 333, 27.12.2022, p. 1–79

97. This policy should include the main phases of the life cycle of these third-party arrangements and define the principles, responsibilities and processes in relation to the use of third-party. In particular, the policy should cover at least:
- a. the responsibilities of the management body including its involvement, as appropriate, in the decision-making;
 - b. the involvement of business lines, internal control functions and other individuals in respect of those arrangements;
 - c. the planning and structuring of third-party arrangements, including the definition of business requirements regarding the use of third-parties.
 - d. risk identification, assessment and management in accordance with Section 11;
 - e. due diligence checks on prospective third-parties;
 - f. policies and procedures to identify, prevent, manage and disclose conflicts of interest, in line with Article 32 of Regulation (EU) 2023/1114;
 - g. business continuity planning and exit strategies to ensure the issuer of ARTs' operational resilience in the event of a failure or disruption at a third-party entity impacting the provision of critical operations. The issuer of ARTs' business continuity and exit plans should assess the substitutability of the third-party entity that it uses for critical operations, and other viable alternatives that may facilitate operational resilience in the event of an outage at a third-party entity such as bringing the activity back in-house;
 - h. the approval process of new arrangements;
 - i. the implementation, monitoring and management of those arrangements, including the ongoing assessment of the third-party entities' performance to ensure that the relationship remains within the issuer of ARTs' risk appetite and tolerance for disruption of critical operations and core business lines;
 - j. the procedures for being notified and responding to changes to an arrangement by third-party entities;
 - k. the independent review and audit of compliance with legal and regulatory requirements and policies;
 - l. the renewal processes for arrangements with third-party entities;
 - m. the documentation and record-keeping; and
 - n. the exit strategies and termination processes, including a requirement for a documented exit plan for each arrangement with a third-party entity, where such an exit is considered possible, taking into account possible service interruptions or the unexpected termination of an agreement.
98. Issuers of ARTs should assess the potential impact of arrangements with third-party entities on their operational risk and operational resilience, in accordance with section 12, and should take into account the assessment results when deciding, if a function should be performed by a third-party entity and should take appropriate steps to avoid undue additional operational risks before entering into these arrangements.
99. Within the risk assessment, issuer of ARTs should also take into account the expected benefits and costs of the proposed arrangement, including weighing any risks that may be reduced or better managed against

any risks that may arise as a result of the proposed arrangement, taking into account at least the measures implemented by the issuer of ARTs and by the service provider to manage and mitigate those risks.

100. When carrying out the risk assessment prior to the reliance on third-party entity and during ongoing monitoring of the third-party entity's performance, issuer of ARTs should, at least:
- a. identify and classify the relevant functions and related data and systems as regards their sensitivity and criticality and required security measures;
 - b. conduct a thorough risk-based analysis of the functions and related data and systems that are being considered for the arrangement and address the potential risks, in particular the operational risks, including subcontracting, legal, ICT, compliance and reputational risks, and the oversight limitations related to the countries where the services are or may be provide;
 - c. consider the geographic dependencies and management of related risks. These risks may relate to the economic, financial, political, legal and regulatory environment in the jurisdiction(s) where the relevant service will be.
101. Before entering into an arrangement with a third-party and considering the risks, including operational risks and counterparty risk, issuers of ARTs should ensure in their selection and assessment process that the third-party entity is suitable.
102. Issuers of ARTs should ensure that the third-party entity has an adequate business reputation, appropriate and sufficient abilities, the expertise, the capacity, the resources (e.g. human, IT, financial), the organisational structure and, if applicable, the required regulatory authorisation(s) or registration(s) to perform the function in a reliable and professional manner to meet its obligations over the duration of the draft contract.
103. Additional factors to be considered when conducting due diligence on a potential thirdparty entity include, but are not limited to:
- a. its business model, nature, scale, complexity, financial situation, ownership and group structure;
 - b. the long-term relationships with the third-party entity that have already been assessed and perform services for the issuer of ARTs;
 - c. the level of substitutability of the service and service provider including the ability to exit the third-party arrangement and either transition to another service provider or bring the critical service back in-house or the potential impact of such substitution on the issuer of ARTs' critical operations;
 - d. whether or not the third-party entity is supervised by competent authorities.
104. Issuers of ARTs should take appropriate steps to ensure that the third-party act in a manner consistent with their values and code of conduct.
105. Issuers of ARTs should ensure at all times that the third party they use to distribute ARTs to the public complies with the procedures ensuring the compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and, where applicable, Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets. The third-party entity should in its internal control systems ensure a continuous compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and, where

applicable, Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain cryptoassets.

13. Internal control functions

106. The internal control functions should include an effective and permanent internal compliance function, and where appropriate and proportionate, taking into account the criteria listed in Title I, a risk management function and an internal audit function. Where issuers of ARTs do not establish and maintain a risk management function and an internal audit function, they should be able to demonstrate upon request that the policies and procedures adopted and implemented for an internal control framework effectively achieve the same outcome as the guidelines provided in this Title V.
107. Issuers of significant ARTs are encouraged to establish internal risk management and internal audit functions. Where the issuer of ARTs does not establish an internal risk management function (RMF) or internal audit function (IAF), the responsibilities of these functions as set out in these guidelines are with the management body, who may delegate the operational tasks internally or externally to a third-party provider, e.g. in form of an outsourcing arrangement³⁷⁹.

13.1 Heads of the internal control functions

108. Heads of internal control functions should be established at an adequate hierarchical level that provides the head of the control function with the appropriate authority and stature needed to fulfil his or her responsibilities. The head of compliance and, where established, the heads of the risk management and internal audit functions should report and be directly accountable to the management body, and their performance should be reviewed by the management body.
109. Where necessary, the heads of internal control functions should be able to have access and report directly to the management body in its supervisory function to raise concerns and warn the supervisory function, where appropriate, when specific developments affect or may affect the issuer of ARTs. This should not prevent the heads of internal control functions from reporting within the regular reporting lines as well.
110. Issuers of ARTs should have documented processes in place to assign the position of the head of an internal control function and for withdrawing his or her responsibilities. In any case, the heads of internal control functions should not be removed without the prior approval of the management body in its supervisory function where it is established.

13.2 Independence of internal control functions

111. In order for the internal control functions to be regarded as operating independently, the following conditions should be met:
- a. their staff do not perform any operational tasks that fall within the scope of the activities the internal control functions are intended to monitor and control unless it is demonstrated that, in view of the criteria listed in Title I for the application of the proportionality principle, the internal control functions continue to be effective. In that case, issuer of ARTs should assess whether the effectiveness of their internal control functions is compromised.
 - b. Where appropriate, they are organisationally separate from the activities they are assigned to monitor and control;
 - c. the remuneration of the internal control functions staff should not be linked to the

³⁷⁹ The outsourcing of operational tasks of compliance may still be possible.

performance of the activities the internal control function monitors and controls and should not otherwise be likely to compromise the staff members' objectivity³⁸⁰.

13.3 Resources of internal control functions

112. Internal control functions should have sufficient resources. Taking into account the application of the proportionality principle as set out in Title I, they should have an adequate number of qualified staff with adequate skills, knowledge and experience. Staff should remain qualified on an ongoing basis and should receive training as necessary.
113. Internal control functions should have appropriate ICT systems and support at their disposal, with access to the internal and external information necessary to meet their responsibilities. They should have access to all necessary information regarding all business lines and relevant risk-bearing subsidiaries, in particular those that can potentially generate material risks for the issuer of ARTs.

14. Risk management function

114. Where established, the risk management function (RMF) should cover the whole issuer of ARTs. The RMF should have sufficient authority, stature and resources, taking into account the proportionality criteria listed in Title I, to implement risk policies and the risk management framework as set out in Section 11.
115. The RMF should have, where necessary, direct access to the management body in its supervisory function, where established.
116. The RMF should have access to all business lines and other internal units that have the potential to generate risk.
117. Staff within the RMF should possess sufficient knowledge, skills and experience in relation to risk management techniques and procedures, and markets and products, and should have access to regular training.
118. Where established, the RMF should be a central organisational feature of the issuer of ARTs, structured so that it can implement risk policies and control the risk management framework. The RMF should play a key role in ensuring that the issuer of ARTs has effective risk management processes in place. The RMF should be actively involved in all material risk management decisions. Where applicable, in a group, the RMF in the Union parent undertaking should be able to deliver a group-wide holistic view on all risks and to ensure that the risk strategy is complied with.
119. The RMF should provide relevant independent information, analyses and expert judgement on risk exposures, and advice on proposals and risk decisions made by business lines or internal units, and should inform the management body as to whether such information and advice is consistent with the issuer of ARTs risk profile. The RMF may recommend improvements to the risk management framework and corrective measures to remedy breaches of risk policies, procedures and limits.

14.1 RMF's role in risk strategy and decisions

³⁸⁰ See also the EBA guidelines on sound remuneration policies, available at <https://www.eba.europa.eu/regulation-andpolicy/remuneration/guidelines-on-sound-remuneration-policies>

120. The RMF's involvement in decision-making processes should ensure that risk considerations are taken into account appropriately. However, accountability for the decisions taken should remain with the business and internal units, and ultimately the management body.

14.2 RMF's role in material changes

121. Before decisions on material changes to products, processes or systems or on exceptional transactions are taken, the RMF should be involved in the evaluation of the impact of such changes on the issuer of ARTs and should report its findings directly to the management body before a decision is taken.
122. The RMF should evaluate how the risks identified could affect the issuer of ART's ability to manage its risk profile and the risks linked to the reserve of assets.

14.3 RMF's role in identifying, measuring, assessing, managing, mitigating, monitoring and reporting on risks

123. The RMF should ensure an appropriate implementation of the risk management framework and that all risks are identified, assessed, measured, monitored, managed and properly reported on by the relevant units of the issuer of ARTs.
124. The RMF should ensure that identification and assessment are not based only on quantitative information or model outputs, but also take into account qualitative approaches. The RMF should keep the management body informed of the assumptions used in, and the potential shortcomings of, the risk quantification tools and methods, including models and analysis.
125. The RMF should ensure that transactions with related parties are reviewed and that the risks they pose for the issuer of ARTs are identified and adequately assessed.
126. The RMF should ensure that all identified risks are effectively monitored by the business or internal units.
127. The RMF should regularly monitor the actual risk profile of the issuer of ARTs and scrutinise it against the strategic goals and risk appetite and report the results to enable decision-making by the management body in its management function and challenges by the management body in its supervisory function.
128. The RMF should analyse trends and recognise new or emerging risks and increases in risk arising from changing circumstances and conditions. It should also regularly review actual risk outcomes against previous estimates (i.e. back testing) to assess and improve the accuracy and effectiveness of the risk assessment methods and risk management process.
129. The RMF should evaluate possible ways to mitigate identified risks. Risk reporting to the management body should include proposals for appropriate risk-mitigating actions.

14.4 RMF's role in risk appetite and limits

130. The RMF should independently assess breaches of risk appetite or limits. The RMF should inform the business or internal units concerned and the management body and recommend possible remedies. The RMF should report directly to the management body in its supervisory function when the breach is material, without prejudice for the RMF to report to other internal functions.
131. The RMF should play a key role in ensuring that a decision on its recommendation is made at the relevant level, complied with by the relevant business units and appropriately reported to the management body and, where established, the risk committee.

14.5 Head of the risk management function

132. Where established, the head of the RMF should be responsible for providing comprehensive and understandable information on risks and advising the management body, enabling this body to understand the issuer of ARTs overall risk profile. Where no independent function has been established, the responsibilities of the head of the risk management function lie with the staff to whom the risk management procedures are entrusted or the members of the management body directly.
133. The head of the RMF should have sufficient expertise, independence and seniority to challenge decisions that affect an issuer of ARTs' exposure to risks. Where the head of the RMF is not a member of the management body, taking into account the principle of proportionality as set out in Title I, issuer of ARTs should appoint an independent head of the RMF who has no responsibilities for other functions and reports directly to the management body. Where it is not proportionate to appoint a person who is dedicated only to the role of head of the RMF, taking into account the principle of proportionality as set out in Title I, this function can be combined with the head of the compliance function or can be performed by another senior person, provided there is no conflict of interest between the tasks performed. In any case, this person should have sufficient authority, stature and independence (e.g. head of legal).
134. The head of the RMF should be able to challenge decisions taken by the issuer's management and its management body, and the grounds for objections should be formally documented. If an issuer of ARTs wishes to grant the head of the RMF the right to veto decisions (e.g., a credit or investment decision or the setting of a limit) made at levels below the management body, it should specify the scope of such a veto right, the escalation or appeal procedures, and how the management body will be involved.
135. Issuers of ARTs should establish strengthened processes for the approval of decisions on which the head of the RMF has expressed a negative view. In its supervisory function, the management body should be able to communicate directly with the head of the RMF on key risk issues, including developments that may be inconsistent with the issuer of ARTs' risk strategy and risk appetite and the head of the RMF should be able to directly report material concerns to the management body in its management function.

15. Compliance function

136. Issuers of ARTs should establish a permanent and effective compliance function to manage compliance risk and should appoint a person to be responsible for this function across all the activities of entity (the compliance officer).
137. The role of compliance officer, taking into account the principle of proportionality as set out in Title I, can be combined with the head of the RMF or, where it is not proportionate to appoint a person who is dedicated only to this function, can be performed by another senior person (e.g. head of legal), provided there is no conflict of interest between the tasks performed.
138. Staff within the compliance function should possess sufficient knowledge, skills and experience in relation to compliance and relevant procedures and should have access to regular training.
139. The management body in its supervisory function should oversee the implementation of a well-documented compliance policy, which should be communicated to all staff. Issuers of ARTs should set up a process to regularly assess changes in the law and regulations applicable to its activities.
140. The compliance function should advise the management body on measures to be taken to ensure compliance with applicable laws, rules, regulations and standards, and should assess the possible impact of

any changes in the legal or regulatory environment on the issuer of ARTs' activities and compliance framework.

141. The compliance function should ensure that compliance monitoring is carried out through a structured and well-defined compliance monitoring programme and that the compliance policy is observed. The compliance function should report to the management body and communicate as appropriate with the RMF on the issuer of ARTs' compliance risk and its management. The compliance function and the RMF should cooperate and exchange information as appropriate to perform their respective tasks. The findings of the compliance function should be taken into account by the management body and the RMF in decisionmaking processes.
142. Issuer of ARTs should take appropriate action against internal or external behaviour that could facilitate or enable fraud or financial crime and breaches of discipline (e.g. breaches of internal procedures or breaches of limits).

16. Internal audit function

143. Where established, the internal audit function (IAF) should be independent and have sufficient authority, stature and resources. In particular, issuers of ARTs should ensure that the qualification of the IAF's staff members and the IAF's resources, in particular its auditing tools and risk analysis methods, are adequate for the issuer of ARTs size and locations, and the nature, scale and complexity of the risks associated with the issuer of ARTs' business model, activities, risk culture and risk appetite.
144. The IAF should be independent of the audited activities. Therefore, the IAF should not be combined with other functions.
145. The IAF should, following a risk-based approach, independently review and provide objective assurance of the compliance of all activities and units of an issuer of ARTs, including the use of third-party entities, with the issuer of ARTs' policies and procedures and with external regulatory requirements.
146. The IAF should not be involved in designing, selecting, establishing or implementing specific internal control policies, mechanisms, procedures or risk limits. However, this should not prevent the management body in its management function from requesting input from internal audit on matters relating to risk, internal controls and compliance with applicable rules.
147. The IAF should assess whether the issuer of ARTs' internal control framework as set out in Title V is both effective and efficient. In particular, the IAF should assess:
- a. the appropriateness of the issuer of ARTs' governance framework;
 - b. whether existing policies and procedures remain adequate and comply with legal and regulatory requirements and with the risk strategy and risk appetite of the issuer of ARTs;
 - c. the compliance of the procedures with the applicable laws and regulations and with decisions of the management body;
 - d. whether the procedures are correctly and effectively implemented (e.g. compliance of transactions, the level of risk effectively incurred, etc.); and
 - e. the adequacy, quality and effectiveness of the controls carried out and the reporting conducted by the business units (first line of defence) and the risk management and compliance functions.

148. The IAF should verify, in particular, the integrity of the processes ensuring the reliability of the issuer of ARTs' methods and techniques for risk quantification, including models. It should also evaluate the quality and use of qualitative risk identification and assessment tools and the risk mitigation measures taken.
149. The IAF should review the adequateness of the processes for the development of white papers, their approval and the processes how ARTs are offered to the public.
150. The IAF should have unfettered issuer-wide access to all the records, documents, information and buildings of the issuer of ARTs. This should include access to management information systems and minutes of all committees and decision-making bodies.
151. The IAF should adhere to national and international professional standards. An example of the professional standards referred to here is the standards established by the Institute of Internal Auditors.
152. Internal audit work should be performed regularly in accordance with an audit plan and a detailed audit programme following a risk-based approach.
153. An internal audit plan should be drawn up at least once a year on the basis of the annual internal audit control objectives. The internal audit plan should be approved by the management body.
154. All audit recommendations should be subject to a formal follow-up procedure by the appropriate levels of management, communicated to the management body of the issuer of ARTs and made available to the competent authority to ensure and report on their effective and timely resolution.

Title VI – Business continuity management

155. Without prejudice to the applicable requirements under DORA, issuers of ARTs should establish, as part of the implementation of their business continuity policy and plans established in accordance with Article 34 (9) of Regulation (EU) 2023/1114, a sound business continuity management and response and recovery plans to ensure their ability to operate on an ongoing basis, to manage incidents that could disrupt the delivery of critical operations in line with the issuer of ARTs' risk appetite and tolerance for disruption, and to limit losses and disruption to service provision in the event of severe business disruption. Issuers of ARTs may establish a specific independent business continuity function taking into account the proportionality criteria listed in Title I.
156. An issuer of ARTs relies on several critical resources (e.g. IT systems, including cloud services, communication systems, core staff and buildings). The purpose of business continuity management is to reduce the operational, financial, legal, reputational and other material consequences arising from a disaster or extended interruption to these resources and consequent disruption to the issuer of ARTs' ordinary business procedures. Other risk management measures might be intended to reduce the probability of such incidents or to transfer their financial impact to third-parties (e.g. through insurance).
157. In order to establish a sound business continuity management plan, an issuer of ARTs should carefully analyse risk factors for, and its exposure to, severe business disruptions and assess (quantitatively and qualitatively) their potential impact, using internal and/or external data and scenario analysis. This analysis should test the issuer of ARTs' ability to deliver critical operations through disruption and should cover all business lines and internal units, including the RMF or risk management procedures, and should take into account their interdependency. The results of the analysis should contribute to defining the issuer of ARTs recovery priorities and objectives.
158. On the basis of the abovementioned analysis, an issuer of ARTs should put in place:

- a. contingency and business continuity plans to ensure that the issuer of ARTs reacts appropriately to emergencies and is able to deliver critical operations and maintain essential data if there is disruption to its ordinary business procedures;
 - b. recovery plans for critical resources and critical or important functions³⁸¹ to recover from disruption and enable the issuer of ARTs to return to ordinary business procedures in an appropriate timeframe. Any residual risk from potential business disruptions should be consistent with the issuer of ARTs' risk appetite;
 - c. for other activities, or where the continuity of critical essential functions is impossible to ensure, issuers of ARTs should have in place procedures for the timely recovery of data and functions and the timely resumption of their activities.
159. Contingency, business continuity and recovery plans should be documented and carefully implemented. The documentation should be available within the business lines, internal units and RMF for staff in charge of risk management procedures and should be stored on systems that are physically separated and readily accessible in case of contingency. Appropriate training should be provided. Plans should be regularly tested and updated. Any challenges or failures occurring in the tests should be documented and analysed, with the plans reviewed accordingly.

Title VII – Transparency

160. Strategies, policies and procedures should be communicated to all relevant staff throughout the issuer of ARTs. Staff should understand and adhere to policies and procedures pertaining to their duties and responsibilities.
161. Accordingly, the management body should inform and update the relevant staff about the issuer of ARTs' strategies and policies in a clear and consistent way, at least to the level needed to carry out their particular duties. This may be done through written guidelines, manuals or other means.

APPENDIX 47: EBA GUIDELINES ESTABLISHING THE COMMON REFERENCE PARAMETERS OF THE STRESS TEST SCENARIOS FOR THE LIQUIDITY STRESS TESTS REFERRED IN ARTICLE 45(4) REGULATION (EU) 2023/1114

(EBA/GL/2024/08 - 19 June 2024)

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³⁸². In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the Guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 3(1), point (35) of Regulation (EU) 2023/1114³⁸³ to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes).

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/08'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

2. Subject matter, scope and definitions

Subject matter

5. These guidelines establish, in accordance with paragraph 8 of Article 45 of Regulation (EU) 2023/1114, the common reference parameters of the stress test scenarios to be included in the liquidity stress testing referred to in paragraph 4 of Article 45 that Regulation.

Scope of application

6. These guidelines apply to issuers of significant asset-referenced tokens and electronic money (e-money) institutions issuing e-money tokens (in accordance with Article 58(1), point a, of Regulation (EU) 2023/1114)

³⁸² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

³⁸³ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023).

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as defined in points 6 and 7, respectively, of Article 3(1) of that Regulation, and non-significant when the competent authority of the home Member State requires it so in accordance with Article 35(4) and Article 58(2) of the same Regulation (hereinafter, for the purpose of these guidelines, jointly referred, as the "issuers of ARTs/EMTs").

Addressees

7. These guidelines are addressed to competent authorities as defined in Article 3(1) point (35) of Regulation (EU) 2023/1114 to whom these guidelines apply.
8. These guidelines are also addressed to the issuers, as defined in point 10 of Article 3(1) of Regulation (EU) 2023/1114, to whom these guidelines apply, of: a) asset-referenced tokens as defined in Article 3(1), point 6 of that Regulation (issuers of asset-referenced tokens -ARTs-); and b) e-money institutions issuing e-money tokens defined in Article 3(1), point 7 of that Regulation (issuers of e-money tokens -EMTs-).

3. Implementation

Date of application

9. These guidelines apply from two months after the date of publication on the EBA's website of the guidelines in all EU official languages.

4. Guidelines on the common reference parameters of the stress test scenarios in the liquidity stress testing

4.1 General provision

10. According with Article 45(4), 2nd subparagraph, Regulation (EU) 2023/1114, issuers of ARTs/EMTs should assess the risks under section 4.2, taking into account regulatory changes and market trends, as well as minimum macroeconomic conditions, and apply the methodology under section 4.3, including the parameters of the stress test scenarios, considering all the asset-referenced and e-money tokens offered and activities related to them.

4.2 Risks to be assessed

4.2.1 Redemption risk

11. Issuers of ARTs/EMTs should assess under stress the proneness to redemption requests at any time.
12. For the purpose of paragraph 11, issuers of ARTs/EMTs should consider all the following aspects: the profile of the token holders (including retail or wholesale); the type of token (including if it is significant or not); the type of asset referenced (such as, official currency or other); the characteristics of the issuer (such as, credit institution or other); historical experience of redemption requests; and, the maturity profile of the reserve of assets. Issuers may consider any other aspect they deemed relevant for the assessment.
13. Issuers of ARTs/EMTs should assess the need to complement the percentages of the reserve of assets with a residual maturity of up to one or five working days in accordance with Article 36(4) Regulation (EU) 2023/1114, once the relevant delegated regulation applies, by estimating a 99% confidence interval relative to the average redeemed amount in the worst cases observed of 1 and 5 days residual maturity in terms of gross outflows, based on their particular historical observations.

4.2.2 Risk related to deposits with credit institutions

14. Issuers of ARTs/EMTs should assess under stress the possibility of failure to a prompt access to the amount of the deposits held in credit institutions as part of the reserve of assets.
15. For the purposes of paragraph 14, issuers of ARTs/EMTs should consider all of the following aspects: i) the credit quality and the liquidity profile of the deposit counterparty; ii) the concentration by counterparty and custodian; iii) the location of the deposit; iv) the maturity of the deposit; v) the potential collateral (including volume, type or quality) lying under the deposit; and, vi) any risk factor not required following Article 36(4) Regulation (EU) 2023/1114 they may consider relevant for this risk.

4.2.3 Market risk and volatility

16. Issuers of ARTs/EMTs should assess under stress the need of additional liquidity requirements to cover the market risk of the reserve of assets as well as its currency denomination differences, volatility and correlation relative to the one of the assets referenced, taking into account related hedging derivatives and overcollateralization in place either imposed in accordance with the specification under Article 36(4) Regulation (EU) 2023/1114, once the relevant delegated regulation applies, or any other requested by the competent authority/supervisor or held on a voluntary basis.
17. Issuers of ARTs/EMTs should take into account the cases where a historical lookback approach is used for the determination of the overcollateralisation in place (referred in the preceding paragraph) and is based on an observation period where no stress event has taken place. In these cases, for example, longer periods including stress events should be considered or stress assumptions should be incorporated.
- 4.2.4 De-pegging risk 18. Issuers of ARTs/EMTs should assess the risk that the market value of the ARTs/EMTs differ from the market value of the asset referenced and whether additional liquidity requirements are necessary to mitigate that difference.

4.3 Methodology

4.3.1 The liquidity stress testing

19. Issuers of ARTs/EMTs should compare the total weighted amount of the reserve of assets with respect to the total weighted amount of the assets referenced by the ARTs/EMTs, under stress.
20. For the purposes of paragraph 19, issuers of ARTs/EMTs should calculate the total weighted amount of the reserve of assets as the result of multiplying the market value of each asset in the reserve of assets by the relevant stress factor (weight). In the case of assets that are not marketable (such as cash or deposits in credit institutions), issuers of ARTs/EMTs should take the amount multiplied by the relevant stress factor.
21. That total weighted amount of the assets referenced by the tokens is the result of multiplying the market value of the assets referenced by the relevant stress factor. In the case of ARTs/EMTs referenced to official currencies their monetary value should be taken as weighted amount of the assets referenced.
22. A shortfall of the reserve of assets in the liquidity stress testing arises where the total weighted amount of the reserve of assets is lower than the weighted amount of the assets referenced by the tokens, under stress.

4.3.2 Identification of the common referenced parameters of the stress test scenarios

23. Issuers of ARTs/EMTs should calibrate and determine the relevant stress factors for each asset of the reserve of assets and for the assets referenced by the ARTs/EMTs under various stress scenarios and time horizons, including 1 day, 5 days, 30 days and 1 year.

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24. Issuers of ARTs/EMTs should base the calibration of the stress factors on historical observations (their own observations plus observations from market events) and expert judgment. Issuers of ARTs/EMTs should have a historical documentation of data series of observations and detailed rationale for any expert judgment proving the appropriateness of the calibration.
25. The stress factor for a specific asset class should be constructed considering the combination of risk factors and parameters relevant for the asset class under different stress events/scenarios from an idiosyncratic and market wide perspective. The severity of the shocks should be determined by the severity of the given stress scenario (including the time horizon). Therefore, different stress factors for the same asset class may be derived for each scenario.
26. The stress factor to be applied to each asset of the reserve of assets should be lower than 100%. The stress factor to be applied to the assets referenced should be higher than 100% if the tokens are not referenced to official currencies.
27. In the determination of the stress factors issuers of ARTs/EMTs should assess all the following parameters and take into account the risks envisaged in section 4.2 of these Guidelines. Issuers of ARTs/EMTs may also consider other relevant parameters and risks not already considered and which are not inconsistent with those in these guidelines.

a) Parameters related to the calibration of the stress factors of the reserve of assets

28. In the determination of the stress factors to the following assets in the reserve of assets, issuers ARTs/EMTs should take into account under stress all the following parameters:

a. **Deposits with credit institutions:**

- i. the credit quality of the deposit taking institution and expectations of nonperformance;
- ii. the credit and liquidity quality of the underlying collateral if the deposit is collateralised;
- iii. the concentration by the deposit taking institution;
- iv. the tenor and early withdrawal options; and
- v. the roll-over risk stemming from securities financing transactions, especially repos, where cash is received against non- liquid assets³⁸⁴.

b. **Commodities:**

- i. the extent to which the reserve assets replicate the assets referenced by the tokens; and
- ii. the potential delivery risk and costs associated if the redemption is in physical.

c. **LCR level 1 liquid assets subject to 0% haircuts [in accordance with Commission Delegated Regulation (EU) 2015/61] and, once the relevant delegated regulation applies, as further specified as highly liquid financial instruments in accordance with Article 38(5) Regulation (EU) 2023/1114:**

³⁸⁴ Liquid assets to be understood as those defined in Article 3 (1) and (2) as 'level 1 assets' or 'level 2 assets', respectively, of Commission Delegated Regulation (EU) 2015/61 of 10 October 2014, to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 011 17.1.2015, p.1).

- i. the weighted average residual maturity/duration to take into account their potential sensitivity to interest rate risk and related volatility;
 - ii. the country risk premium to take into account their related volatility; iii. the concentration by issuer; iv. the location of the security (custodian) to take into account any potential challenge for a prompt transfer; and v. the evolution of the market value of the specific security, to assess their volatility and correlation with respect to the assets referenced.
- d. **LCR level 1 covered bonds [in accordance with Commission Delegated Regulation (EU) 2015/61] and, once the relevant delegated regulation applies, as further as specified as highly liquid financial instruments following Article 38(5) Regulation (EU) 2023/1114:**

- i. the required LCR haircuts;
 - ii. the weighted average residual maturity/duration to take into account their potential sensitivity to interest rate risk and related volatility,
 - iii. their percentage of the reserve of assets,
 - iv. the concentration by issuer,
 - v. the location of the security (custodian) to take into account any potential challenge for a prompt transfer,
 - vi. the evolution of the market value of the specific security, to assess their volatility and correlation with respect to the assets referenced.
- e. Other highly liquid financial instruments, once the relevant delegated regulation applies, as further specified following Article 38(5) Regulation (EU) 2023/1114:
 - i. the required LCR haircuts;
 - ii. the weighted average residual maturity/duration to take into account their potential sensitivity to interest rate risk and related volatility;
 - iii. their percentage of the reserve of assets;
 - iv. the concentration by issuer;
 - v. the location of the security (custodian) to take into account any potential challenge for a prompt transfer; and vi. the evolution of the market value of the specific security, to assess their volatility and correlation with respect to the assets referenced.

b) Parameters related to the calibration of the stress factors of the assets referenced

29. In the determination of the stress factors to the assets referenced by the tokens, issuers of ARTs/EMTs should take into account under stress all the following parameters:
- i. volatility and distributional indicators of the market value of the reserve of assets (such as mean, quartiles and distribution of the market value of the reserve of assets);

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- ii. volatility and distributional indicators with respect to the assets referenced (such as mean, quartiles and distribution of the market value of the assets referenced);
- iii. idiosyncratic stress factors (such as liquidity, solvency soundness of the issuer);
- iv. market wide stress factors (such as stress factors in the financial system or the crypto eco-system, number and magnitude of deviations between the token price and the market value of the asset referenced by the token).

APPENDIX 48: EBA GUIDELINES ON RECOVERY PLANS UNDER ARTICLES 46 AND 55 OF REGULATION (EU) 2023/1114

(EBA/GL/2024/07 - 13 June 2024)

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³⁸⁵. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 13/11/2024. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/07'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

2. Subject matter, scope and definitions

Subject matter

5. These guidelines specify the format and the information that should be contained in the recovery plan that issuers of asset-referenced tokens and issuers of e-money tokens have to draw up and maintain according to Articles 46 and 55 of Regulation (EU) 2023/1114³⁸⁶.

Scope of application

6. These guidelines apply in relation to issuers of asset-referenced tokens and e-money tokens as defined in points 6 and 7 of Article 3(1) of Regulation (EU) 2023/1114 (hereinafter, for the purposes of these guidelines, jointly referred as the 'issuers').

³⁸⁵ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

³⁸⁶ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, P.40).

7. Any provision of these guidelines relating to the content of the recovery plan as regards the reserve of assets, including paragraph 29, number 1) and 3), paragraph 30, number 6) and 7), paragraph 31 and paragraph 53, does not apply to issuers of e-money tokens that are not subject to the requirement to hold a reserve of assets in accordance with Regulation (EU) 2023/1114.

Addressees

8. These guidelines are addressed to competent authorities as defined in Article 3(1) point (35) of Regulation (EU) No 2023/1114.
9. These guidelines are also addressed to the issuers, as defined in point 10 of Article 3(1) of Regulation (EU) 2023/1114, of:
- a) asset-referenced tokens as defined in Article 3(1), point 6 of that Regulation (issuers of asset-referenced tokens -ARTs-); and
 - b) e-money tokens defined in Article 3(1), point 7 of that Regulation (issuers of e-money tokens -EMTs-).

Definitions

10. Unless otherwise specified, terms used and defined in Regulation (EU) 2023/1114 have the same meaning in the guidelines. In addition, for the purposes of these guidelines, the following definitions apply:

Term	Definition
De-pegging risk	is the risk that the value of the asset-referenced token or e-money token misaligns with that of the market value of the reference asset(s), i.e. that differences between the market value of the token and the market value of the asset referenced arise.
Multi-chain issuance	refers to an asset-referenced token or an e-money token that is issued and distributed on more than one distributed ledger technology (DLT) or similar technology
Overall recovery capacity	refers to the ability to recover by implementing recovery options in a range of financial and nonfinancial distress scenarios

3. Implementation

Date of application

11. These guidelines apply from 13/11/2024.

4. Recovery plans for issuers of assetreferenced tokens and issuers of emoney tokens

4.1 Proportionality consideration

12. To ensure that the information to be provided in a recovery plan, its format and its review by competent authorities is consistent with the individual risk profile, the nature and the business model of the ARTs or EMTs issuer and the scale and complexity of its activities, issuers and competent authorities should, when drawing up or assessing recovery plans, have regard to the principle of proportionality.
13. To apply the previous paragraph, issuers and competent authorities should take into account all of the following criteria:
 - a. the size, complexity, nature and business model of the issuer;
 - b. the classification of the asset-referenced token or e-money token issued as significant pursuant to Articles 43 and 44 and Articles 56 and 57 of Regulation (EU) 2023/1114;
 - c. for issuers of asset-referenced tokens, the size, volatility, composition, concentration and nature of the reserve assets and of the asset-referenced token itself;
 - d. for issuers of e-money tokens, the size, volatility, composition, and concentration of the assets backing the funds received;
 - e. the significance and risk profiles of Crypto Asset Service Providers used in rendering the services related to the asset-referenced tokens or e-money tokens issued by the respective issuer;
 - f. the significance and risk profiles of DLT networks which are used by the respective issuer in order to issue asset-referenced tokens or e-money tokens through them;
 - g. the risk profile of third party providers other than Crypto Asset Service Providers and DLT networks which provide a significant or a critical ICT service to the respective issuer.
14. For the application of the principle of proportionality, issuers of tokens that are classified as significant should apply the requirements set out in paragraph 62 at least on annual basis and include in their recovery plan all categories of recovery plan indicators laid down in paragraphs 29 and 30.

4.2 Content of the recovery plan

15. The recovery plan should be made up of all the following elements:
 - a) The summary of the key elements of the recovery plan, as further specified in Section 4.3 of these guidelines.
 - b) Information on governance, including a framework of recovery plan indicators and monitoring thresholds, as further specified in Section 4.4 of these guidelines.
 - c) The description of the applicable recovery options, including at least a recovery scenario analysis, a description of preparatory measures and information on the preservation of services as further specified in Section 4.5 of these guidelines.
 - d) The recovery plan's communication and disclosure plan, as further specified in Section 4.6 of these guidelines.

4.3 Summary of the key elements of the recovery plan

16. Issuers should include in their recovery plan a summary of the key elements of the recovery plan as laid down in letters (b), (c), and (d) of paragraph 15.
17. In the summary of the key elements of the recovery plan, issuers should also list and highlight the main changes to the previous version of the recovery plan submitted to the competent authority.

4.4 Information on governance

18. Issuers should include in their recovery plan a clear and detailed description of the governance processes related to the development, maintenance and implementation of the recovery plan.
19. The information on governance referred to in the previous paragraph should cover at least the following:
 - a) the role(s) and function(s) of the person(s) responsible for preparing, implementing and updating the plan;
 - b) the description of how the recovery plan fits with the issuer's internal governance, business strategy and risk management framework (including the risk appetite statement);
 - c) the description of the processes and timeframes to be used for the periodical update of the plan and for updating it to respond to any material changes affecting the specific token, the issuer or its environment;
 - d) the policies and procedures governing the approval of the recovery plan and its reviews and updates;
 - e) the description of the escalation procedures, meaning the conditions and procedures necessary to ensure the timely implementation of particular recovery options foreseen in the recovery plan. These should include at least clear information on the decisionmaking process with regard to the activation of the recovery plan based on a clearly detailed escalation process that applies when a breach of a recovery plan indicator threshold is detected or is likely to materialise in the near future, to consider and determine which recovery option may need to be applied to restore the compliance with the relevant regulatory requirements applicable to the reserve of asset or to continue rendering services related to the relevant token;
 - f) the time limit for the decision on taking recovery actions and the point in time, as well as the modalities, for informing the competent authority;
 - g) the description of quantitative and qualitative indicators reflecting possible vulnerabilities, weaknesses or threats to the amount, liquidity and allocation of the reserve of assets and the funds that issuers have to maintain at any time pursuant to Regulation (EU) 2023/1114, as further specified in paragraphs 22-41.
20. Where the issuers have entered into an arrangement with third party entities for operating the reserve of assets, and for the investment of the reserve of assets, for the custody of the reserve of assets, and, where applicable, for the distribution of the tokens to the public pursuant to point (5)(h) of Article 34 of Regulation (EU) 2023/1114, they should include in their recovery plan a clear and detailed description of the processes established to exchange information in a way that would ensure the timely activation of the escalation process laid down in paragraph 37 in case a breach of a recovery plan indicator threshold is detected, either by the issuer or by the relevant third party entity. The issuer should also specify in the recovery plan how the agreement with any of those third parties ensures the information is timely shared in a way that would allow the issuer to be aware of the breach or to acknowledge that the breach is likely to occur in the near future so that the plan can be activated in a timely manner.

21. In addition, issuers should ensure that actions foreseen in their recovery plan are consistent with the ICT response and recovery plan requirements as well as with other relevant parts of the ICT risk management laid down in Regulation (EU) 2022/2554³⁸⁷, when the relevant issuers were also subject to those requirements.

Recovery plan indicators and monitoring thresholds

22. Issuers should lay down in the recovery plan an adequate framework of recovery plan indicators, via which the issuer can establish predetermined criteria that may signal the necessity of an increased frequency of monitoring or the activation of the recovery plan. These criteria should be set in a way to allow the issuer to monitor, escalate and activate recovery options as appropriate.
23. Recovery plan indicators should reflect both the token's and the issuer's specific risk profile and operating environment. As such, the calibration of recovery plan indicators and thresholds should be applied at the level of the token, except for the capital adequacy indicators that should be calibrated at the level of the issuer, based on its specific size, complexity, nature and business model and the operational risk indicators and the market confidence indicators that should be calibrated both at the level of the issuer and at the level of the token.
24. When assessing what type of indicators will be included in the recovery plans, each issuer should carefully consider the types of events that may lead to a breach of regulatory requirements and elaborate specific indicators based on its internal risk assessment. Therefore, issuers should consider the list of indicators provided in Annex I as illustrative, so they may choose any or all of the indicators under each category.
25. In addition, issuers should not limit their set of recovery plan indicators to the list provided in Annex I. Rather, they should consider the inclusion of the most appropriate indicators, even if not included in Annex I, based on the criteria laid down in these guidelines, including for instance indicators that would be helpful to address environmental, social and governance risks, and in any other circumstances when issues on a relevant field were identified.
26. Issuers should ensure that the list of recovery plan indicators and the calibration of their threshold is based on their internal risk assessment and that it is always consistent with its risk appetite framework. Changes to the issuers' risk appetite should trigger a review of the list of recovery indicators and thresholds, aimed to assess that they remain suitable in case of changes to their risk appetite framework.
27. Issuers should include in the recovery plan that they will monitor the recovery plan indicators with an adequate frequency which would allow the timely submission of the indicators' data records to the competent authority upon request. Issuers should also specify how they will monitor said indicators.
28. Issuers should include recovery plan indicators of both quantitative and qualitative nature. When setting the quantitative recovery plan indicator thresholds, consistently with their overall risk management framework set up in accordance with Article 45(3) and 45(7)(b) of Regulation (EU) 2023/1114, issuers should use progressive metrics ('traffic light approach') in order to inform the issuer's management body that such indicator threshold could potentially be reached.
29. Issuers should include in the recovery plan at least the following categories of recovery plan indicators, as further detailed in Annex I (Section A – "Minimum categories for all issuers of ARTs or EMTs"), in particular:

³⁸⁷ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1).

- 1) liquidity risk indicators, informing the issuer of a potential or actual deterioration of the liquidity profile of the reserve of assets;
 - 2) operational risk indicators, describing the potential risks resulting from inadequate or failed internal processes, people and systems or from external events, including legal risk. When calibrating this type of indicators, issuers should specifically take into account the type of underlying technology (e.g. permissioned/permissionless distributed ledger) as well as its complexity (e.g. the existence of bridges, the quality of the cryptography, etc). Issuers should also consider that relying on a unique and complex infrastructure rather than on a standard one may have repercussions not only on the ability to replace it, but also on the availability of people able to maintain and fix it. In case of multi-chain issuances, issuers should include specific indicators for each distributed ledger technology used to distribute the asset-referenced token and/or the e-money token;
 - 3) credit risk/asset-quality indicators, measuring the asset quality evolution of the reserve of assets;
 - 4) referenced asset(s)-related indicators, measuring the risk of massive redemption requests, e.g. triggered by the loss of peg;
 - 5) capital adequacy indicators, measuring the potential deterioration in the quantity and quality of the capital position of the issuer, including the level of compliance with the own funds requirements laid down in Article 35 of Regulation (EU) 2023/1114. The calibration of such indicators should be set above their applicable minimum regulatory requirement. Capital adequacy indicators should only be used by issuers of assetreferenced tokens and e-money tokens that are not credit institutions.
30. Issuers should also include in the recovery plan the following categories of recovery plan indicators, as further detailed in Annex I (Section B – Additional minimum categories for issuers of significant ARTs and EMTs, and for other issuers that do not provide appropriate justification for the non-inclusion to the competent authority):
- 6) market risk indicators, stemming from all the positions included in the reserve of assets, including the volatility related to that of the asset(s) referenced;
 - 7) concentration risk indicators, highlighting the excessive exposure of the reserve of assets to a single counterparty or an interconnected set of counterparties;
 - 8) market confidence indicators, capturing the potential negative perception of market participants of the issuer or the token that could disrupt the issuer's access to funding and capital markets or determine a rapid increase of redemption requests;
31. By way of derogation, issuers of non-significant tokens are exempted from including the categories of recovery plan indicators laid down in the previous paragraph as long as they provide appropriate justifications to their competent authority that such categories are not suitable or relevant to the risk profile, business model, size and/or complexity of the issuer.
32. Among the referenced asset(s)-related indicators, issuers should always incorporate at least a de-pegging risk indicator, aimed to capture the risk that the market value of the token differs from the market value of the asset(s) referenced. The de-pegging risk indicator should be measured as the ratio between the market value of the token and the market value of the referenced asset(s) and is expected to equal 1 at all times, with a tolerance interval not exceeding 1%. Instances of ratios lower than 1 should trigger the issuer's action as laid down in its recovery plan.

33. Issuers should clearly describe in the recovery plan to the satisfaction of the competent authority how the calibrations of the recovery plan indicators have been determined and how the thresholds would be breached early enough to be effective.
34. Issuers should describe in the recovery plan how they will regularly monitor and update the appropriateness of the recovery plan indicators and the calibration of their thresholds. In particular, issuers should specify how they would ensure the recovery plan is updated where it is needed due to a change in the financial and business situation of the issuer and/or of the specific token. Issuers should include in the recovery plan that any update in the calibration of recovery plan indicator thresholds should be promptly notified and explained to the competent authority. Issuers should ensure at all times that the recovery plan indicators and their thresholds are fully consistent with the issuers' risk management framework.
35. The content of the recovery plan should be drawn by issuers considering that there should be no automaticity in the activation of recovery options upon breaching recovery plan indicator thresholds, and that it would be for the issuer to decide whether and when to activate the recovery plan in the case of a breach. When calibrating the recovery plan indicators, issuers should ensure that they have this decision point at an early enough stage to be able to implement action if needed.
36. Issuers should set out in the recovery plan their internal decision-making process. Issuers should ensure that said process would be thorough and well-grounded, in line with paragraphs 39, 40 and 41. In addition, issuers should state in their recovery plan that, whether the issuer decides to take action or not, they will keep an open and active dialogue with the competent authority.
37. For breaches of recovery plan indicator thresholds to effectively fulfil their warning potential, issuers should lay down in their recovery plan that they will promptly and in any event:
 - within maximum 24 hours from the breach of the recovery plan indicator threshold, alert the issuer's management body by activating the appropriate escalation process in order to ensure that any breach is considered and, where relevant, acted upon; and
 - at the latest within 24 hours following the activation of the internal escalation process, notify the breach of the recovery plan indicator threshold to the competent authority.
38. To account for the probability that the timeframes set under the previous paragraph may not allow the issuer to react to the breach of a threshold in a timely manner, issuers should determine the most appropriate time limit for the execution of those activities, on the basis of the specificities of its operations, size and complexity of the reserve of assets. In any case, the timeframes specified in the previous paragraph should not be extended.
39. Issuers should specify in the recovery plan that where a recovery plan indicator threshold has been breached, the management body of the issuer will assess the situation, decide whether to trigger the activation of the recovery plan and promptly notify the competent authorities. Issuers should also include in the recovery plan that the decision to activate the recovery plan will cover the type of recovery actions to be taken.
40. Issuers should also specify in the recovery plan that the decision referred to in the previous paragraph should be based on a reasoned analysis of the circumstances surrounding the breach.
41. Issuers should describe in the recovery plan that where they decide to take action in accordance with the recovery plan, the competent authority will be provided, without undue delay, with an action plan based on a list of credible and feasible recovery options to be used in this stress situation, together with a time

plan to remediate the breach. The recovery plan should also include that, if no action has been decided, the competent authority will be provided with an explanation clearly articulating the reasons why and, where appropriate, demonstrating how the restoration of specific types of indicators and their breaches is possible without the use of recovery measures.

4.5 Recovery options

42. Issuers should lay down in their recovery plan a range of recovery options that are tailored on the issuer's business model and the nature of the asset-referenced or e-money token issued.
43. As regards the recovery options laid down in Article 46 of the Regulation (EU) 2023/1114, issuers should apply the following:
 - a) the recovery plan should set a maximum amount for liquidity fees to be imposed on redemptions and lay down how the duration of the measure will be communicated to the public;
 - b) in setting the maximum amount of liquidity fees to be imposed on redemptions, issuers should ensure that this recovery option is not applied as a means to increase the issuer's liquidity resources at the expenses of token holders. Issuers should ensure that this recovery option is applied only temporarily during the distress phase with the sole purpose to reduce redemption requests while stabilising the value of the token;
 - c) the recovery plan should set out different quantitative levels of limits on the number or amount of tokens that can be redeemed on any working day. These levels should be determined based on the severity of the breach(es) of recovery plan indicator threshold(s) and should be set both at aggregate level (e.g. as a percentage of the entire amount of tokens issued) and at wallet level;
 - d) the recovery plan should explain what other remedial actions the issuer will take once it has suspended redemptions. Issuers should include in their recovery plan that they will consider that suspending redemptions could negatively impact their reputation and the confidence of token holders and result in higher volumes of redemption requests once the suspension is lifted. Issuers should include in their recovery plan that they will especially consider whether the lift of the suspension should be accompanied by other measures, including but not limited to liquidity fees or limits to the amount of tokens that can be redeemed on a daily basis;
 - e) issuers should include in the recovery plan how they plan to restore compliance with the regulatory requirements and clearly communicate to the market the next steps.
44. In addition to the recovery options listed in Article 46 of the Regulation (EU) 2023/1114, issuers should include at least one recovery option that would strengthen the capital position and one recovery option aimed at improving the liquidity position of the issuer. A non-exhaustive list of possible recovery options is provided in Annex III.
45. The recovery plan should also include details of any preparatory measure that the issuer should take to facilitate the implementation of the recovery plan or to improve its effectiveness together with a timeline for implementing those measures, as well as a description of any measures necessary to overcome impediments to the effective implementation of recovery options which have been identified in the recovery plan.
46. For every recovery option, issuers should include in the recovery plan a feasibility assessment, which covers at least:

- a) the assessment of the risks associated with the recovery option, whenever possible drawing on any experience of executing the recovery option or an equivalent measure; and
 - b) an analysis and description of any material impediment to the effective and timely execution of the recovery option and a description of whether and how such impediments could be overcome.
47. In addition, issuers should outline for every recovery option how the continuity of operations will be ensured when implementing that option. This should include an analysis of internal operations (e.g. information technology systems, suppliers and human resources operations) and of the access of the issuer to key services from third parties which are essential for the regular conduct of its operations.
48. To prove the credibility of recovery options, issuers should provide quantitative and qualitative evidence to support the expected benefits of each option. In any case, the recovery plan should detail at least the items listed in Annex II.
49. Issuers also operating businesses other than the issuance of asset-referenced tokens and/or e-money tokens should assess the implications for their overall recovery capacity arising from those other businesses and should include in the recovery plan that they will adopt the most appropriate measures to ensure compliance with Articles 46 and 55 of Regulation (EU) 2023/1114.
50. Issuers should include in their recovery plan how they plan to monitor the implementation of the recovery options to ensure that the execution of the recovery plan is likely to restore compliance with the regulatory requirements applicable to the reserve of assets.
51. Issuers should include in the recovery plan the process envisaged for the implementation phase, always including an open and active dialogue with the competent authority to ensure a smooth transition towards the implementation of the issuer's orderly redemption plan pursuant to Articles 47 and 55 of Regulation (EU) 2023/1114 should it become clear that compliance with regulatory requirements applicable to the reserve of assets cannot be restored.

Recovery scenarios

52. Issuers should ensure to lay down in their recovery plans an adequate number of scenarios whose nature is sufficiently varied to cope with a wide range of shocks.
53. When developing their recovery plans, issuers should use financial system-wide distress scenarios and/or idiosyncratic financial distress scenarios and/or non-financial distress (including services distress) scenarios to test their recovery planning capabilities. Scenarios used for recovery planning should be designed in a way that would threaten the issuer's compliance with requirements applicable to the reserve of assets if the issuer did not implement recovery measures in a timely manner. The number and complexity of scenarios should be determined by each issuer taking into account the principle of proportionality in line with Section 4.1.

Preservation of services

54. Issuers should lay down in the recovery plan how they intend to recover operations in a timely manner and fulfil their obligations in case of events that pose a significant risk of disrupting operations. Issuers should also list in the recovery plan the services they intend to preserve based on their business model and detail how they will ensure the preservation of the services related to asset-referenced and e-money tokens. The list of services to be preserved should at least include services related to the issuance and the redemption of tokens. Where the implementation of the recovery options has the potential to negatively impact the

issuer's provision of any of the services identified, the description of the recovery options should outline how the issuer plans to ensure the continuity of said services when implementing the recovery plan.

55. Issuers that operate payment arrangements in euro – as defined by the Eurosystem oversight framework for electronic payment instruments, schemes and arrangements (PISA framework) – should ensure that recovery actions foreseen in the recovery plan are consistent with the objective to maintain adherence to the principles outlined in the PISA framework.
56. In addition, issuers should ensure that actions foreseen in their recovery plan do not unduly affect the ability of any Crypto Asset Service Providers they deal with³⁸⁸ to comply with Regulation (EU) 2022/2554.

4.6 Communication and disclosure plan

57. Issuers should include in the recovery plan a communication and disclosure plan outlining how the issuer intends to inform token holders and other stakeholders, including the public, about the implementation of the recovery options. The communication and disclosure plan should also include effective proposals to manage any potentially negative market reaction.
58. The communication and disclosure plan should clarify how the issuer intends to communicate: a) internally, in particular to staff, works councils and other staff representatives, if any; and b) externally, in particular to token holders, shareholders and other investors, competent authorities, financial markets and financial market infrastructures, other counterparties and the general public, as appropriate.
59. In the communication and disclosure plan issuers should also include how they will ensure the preservation of its token-related services, the foreseen timelines for recovering its operations and for the fulfilment of its obligations. The communication and disclosure plan should also cater for scenarios in which it is unlikely that the issuer will recover operations or will fulfil its obligations, thus leading to the activation of the issuer's redemption plan.
60. The communication and disclosure plan should clarify the (mix of) communication channels and the strategies that the issuer intends to use during the recovery phase. In doing so, issuers should consider that:
 - a) different stakeholders may have different communication needs;
 - b) internal and external stakeholders may need to be informed at different stages; and
 - c) different recovery options may warrant specific communication strategies.

4.7 Format and maintenance of the recovery plan

61. Issuers should draft their recovery plan in a clear and understandable language. The recovery plan should be complete, self-explanatory, accurate and contain at least all the information listed in these guidelines.
62. Issuers should include in their recovery plan that the information provided therein will be updated periodically and at least every time there is a material change in the business or financial profile of the issuer and/or of the token issued. Any review or update of the plan should be notified to the competent authority

³⁸⁸ Reference is made to Crypto Asset Service Providers (CASP) providing custodial services, offering exchange services for conversion of ART to fiat and vice-versa. The recovery actions undertaken by the issuer should not conflict with the ability of the CASPs to maintain compliance with DORA Regulation.

without undue delay. Issuers of significant tokens should include in their recovery plan that they will update the information provided therein at least on an annual basis.

4.8 Interaction between different recovery planning obligations

Multiple issuers of the same token and issuers offering two or more tokens to the public

63. When an asset-referenced token or an e-money token is issued by multiple issuers, all issuers should include in their recovery plan how they will ensure effective coordination among the respective recovery plans. In particular, issuers should establish in their recovery plan appropriate measures aimed at ensuring that:
- a) recovery plan indicators are aligned to the maximum possible extent;
 - b) thresholds of token-related recovery plan indicators are set at the same level;
 - c) recovery options laid down in each plan are consistent with each other;
 - d) the activation and execution of the respective recovery plans is agreed and coordinated among all issuers;
 - e) the implementation of certain recovery options by one of the issuers does not unduly impact on the implementation of other recovery options by the other issuers;
 - f) the execution of the recovery plans is done in a way that all token holders are treated fairly and equally.
64. As regards the format, issuers that offer two or more tokens to the public should draft a recovery plan for each asset-referenced and/or e-money token they issue and calibrate tokenspecific recovery plan indicators and thresholds therein.
65. Competent authorities should consider whether issuers that offer two or more tokens to the public should draft one separate recovery plan for each token issued or a single recovery plan divided into separate sections, each laying down token-specific elements. This second option should be excluded where one of the tokens is issued by multiple issuers.
66. Issuers offering two or more tokens to the public should at least ensure that:
- a) issuer-related recovery plan indicators are consistent and the respective thresholds are set at the same level;
 - b) recovery options laid down for each token are not contradicting each other;
 - c) the activation and execution of one recovery plan would not negatively impact on the activation and execution of other recovery plans;
 - d) the implementation of any recovery option does not interfere with the provision of services related to the other tokens issued.

Issuers subject to other recovery planning obligations under EU sectoral legislation

67. Where the issuer is a credit institution or an investment firm required to draw a recovery plan under the Directive 2014/59/EU³⁸⁹, subject to the prior agreement with the competent authorities designated under Regulation (EU) 2023/1114 and Directive 2014/59/EU, and subject to the compliance with the confidentiality requirements laid down in Directive 2014/59/EU, such issuer:
- a) may include in the recovery plan drafted and approved in accordance with Directive 2014/59/EU (the 'BRRD recovery plan') an annex containing all the information specified in these guidelines, by cross-referencing the relevant sections of the BRRD recovery plan which are fit to comply with sections 4.2 to 4.6 of these guidelines, and/or by including new sections or information where necessary to comply with these guidelines;
 - b) issuers opting for option under letter a) above should submit the recovery plan under Regulation (EU) 2023/1114 drafted in the form of the annex referenced under letter a) above to the competent authority designated under Regulation (EU) 2023/1114; the issuer should also clearly identify in a statement/index the specific sections and pages of the BRRD recovery plan where the information laid down in these guidelines is included.
68. The previous paragraph does not apply to credit institutions and investment firms that are issuers of significant asset referenced tokens.

³⁸⁹ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

Annex I – List of minimum categories of recovery plan indicators and illustrative list of recovery plan indicators

List of minimum categories and non-exhaustive list of recovery plan indicators	
A. Minimum categories for all issuers of ARTs and EMTs	
Category 1. Liquidity risk indicators	
a)	Sight deposits at credit institutions and (where applicable) central banks / daily redeemed amount (five rolling day average)
b)	Sight deposits at credit institutions and (where applicable) central banks + reverse repurchase agreements that can be terminated by one working day notice + highly liquid financial instruments / highest daily redeemed amount over the last three months
c)	Sight deposits at credit institutions and (where applicable) central banks + reverse repurchase agreements that can be terminated by five working day notice + highly liquid financial instruments / sum of the five highest daily redeemed amounts over the last twelve months
d)	Sight deposits at credit institutions and (where applicable) central banks + reverse repurchase agreements that can be terminated by one working day notice + highly liquid financial instruments / sum of highest daily redeemed amount over the last three months to the (x ³⁹⁰) largest token holders
e)	Daily net flow, i.e. token issued – token redeemed (five rolling day average)
Category 2. Operational risk indicators	
a)	Any incident significantly disrupting the regular operation of the issuer's services or its business continuity (e.g. prolonged outage affecting IT systems or token delivery systems; infrastructure failures, including dysfunctions of the Distributed Ledger Technology; risks stemming from interoperability of different infrastructures, e.g. via bridges), also where caused by a third party service provider
b)	Recovery Time Objective (i.e. the maximum acceptable time to recover from a product or system failure)
c)	Maximum time since resignation or prolonged absence of key personnel
d)	Breach or expected breach of any regulatory requirement
e)	Legal risk
Category 3. Credit risk/asset-quality indicators	

³⁹⁰ Number of the largest token holders by taking into account the principles laid down in these guidelines. Multiple indicators may be used, each one with a different number of the largest token holders if this suits better with their risk management practices

a) Highly liquid financial assets with impairment indicators (e.g. indicators of impairment to credit quality as laid down in IFRS 9) / reserve of assets
b) Total amount of the reserve of assets held as deposits placed at credit institutions with the lowest credit rating as per issuer's risk appetite in line with Article 36(4) of Regulation (EU) 2023/1114 / total banking deposit within the reserve of assets
c) Distance from the minimum level of over-collateralization (as specified under Article 36(4) of Regulation (EU) 2023/1114)
d) Negative change in the credit rating of key counterparties (e.g. credit institution holding issuer's deposit)
Category 4. Referenced asset(s) related indicators
a) De-pegging risk, to be measured as the ratio between the market value of the token and the market value of the referenced asset(s)
b) Regulatory changes negatively affecting the referenced asset(s)
c) Freeze or significant negative change in the liquidity of the market where the referenced asset(s) is (are) exchanged
Category 5. Capital adequacy indicators
a) Own funds indicator
B. Additional minimum categories for issuers of significant ARTs and EMTs and for other issuers that do not provide appropriate justification for the non-inclusion to the competent authority
Category 6. Market risk indicators
a) Ratio 'Daily change of reserve of assets' market value / (x^{391}) rolling day average'
b) Ratio 'Reserve of assets' volatility / referenced assets' volatility'
c) Sensitivity to interest rate changes of the reserve of assets
d) Ratio 'Value At Risk of the reserve of assets / issuer's own funds'
Category 7. Concentration risk indicators

³⁹¹ Number of days, by taking into account the principles laid down in these guidelines. Multiple indicators may be used, each one with a different time horizon if this suits better with their risk management practices.

a) Ratio 'Value of token held by five largest counterparties / total value of token issued'
b) Ratio '(Deposit at single banking group + securities issued by a single counterparty) / maximum concentration limit ³⁹² '
c) Concentration ratio of deposits held in credit institutions / maximum concentration ratio for deposits
Category 8. Market confidence indicators
a) Negative media coverage ³⁹³ for the issuer or the tokens issued
b) Negative news or media coverage for key counterparties (e.g. provider of custodial services; banks holding a material amount of deposits)
c) Breach or expected breach of recovery plan indicators' thresholds relative to any other token issued
d) Material changes in the frequency or amount of payments executed by using the token as well as in the way tokens are used as a means of payment
e) Impairment to the reputation of the issuer or of key representatives of the issuer
f) Sudden increase in redemption requests
g) Sudden decrease of token issuance

³⁹² In accordance with Article 36(4) of Regulation (EU) 2023/1114.

³⁹³ Reference to media includes social networks and specialised blogging platforms

Annex II – List of items to be included in the description of each recovery option

1. Items for the description of the recovery options:
 - a) A summary of the essential elements.
 - b) A description of the recovery option.
 - c) An overview of the key assumptions underlying each recovery option.
 - d) An assessment of the strategic implications of executing the recovery option.
 - e) An assessment of the financial impact in normal and stressed market conditions.
 - f) The potential adverse consequences of the recovery option.
 - g) A timeline for effective execution, including the expected time frame for the implementation of the necessary actions.
 - h) Any dependency on external counterparties for effective execution.
 - i) Mutual exclusivity – whether some recovery options are mutually exclusive.
 - j) Interdependencies – whether activating one recovery option could affect the subsequent or simultaneous implementation of another option.
 - k) Operational considerations, such as approval requirements and capability to implement two or more recovery option simultaneously.
 - l) An assessment of potential constraints to effective execution. This assessment is particularly relevant with respect to options referred under point (1) of Article 46 of Regulation (EU) 2023/1114.
 - m) The communication strategy to inform the holders of the tokens about any measures that could adversely impact them.

Annex III – Non-exhaustive list of possible recovery options that issuers could use in their recovery plans

1. Capital raising.
2. Injection of additional funds.
3. Access to standard central bank facilities, where eligible.
4. Change of composition and/or reduction of the riskiness of the reserve of assets.
5. Change of the third-party provider (e.g. Crypto Asset Service Provider).
6. Purchase of financial guarantees from a credit institution or an insurance company covering the value of the reserve of assets.
7. Sale of business.
8. Merger with another issuer.
9. Merger of one issuance of asset-referenced tokens with another one.
10. Commercial measures.

APPENDIX 49: EBA GUIDELINES ON REDEMPTION PLANS UNDER ARTICLES 47 AND 55 OF REGULATION (EU) 2023/1114

(EBA/GL/2024/13 - 09/10/2024)

1. Compliance and reporting obligations

Status of these Guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³⁹⁴. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the Guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 3(1), point (35), of Regulation (EU) 2023/1114³⁹⁵ to whom the Guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes).

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these Guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/2024/13'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

2. Subject matter, scope and definitions

Subject matter

5. These Guidelines specify (a) the content of the redemption plan, (b) the periodicity for review and update of such a plan, and (c) the triggers for implementation of the redemption plan that issuers of asset-referenced tokens and issuers of e-money tokens have to draw up and maintain operational according to Articles 47 and 55 of Regulation (EU) 2023/1114.

Scope of application

³⁹⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12, ELI: <http://data.europa.eu/eli/reg/2010/1093/oj>).

³⁹⁵ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>).

6. These Guidelines apply to issuers of asset-referenced tokens and e-money tokens (as defined in points 6 and 7 of Article 3(1) of Regulation (EU) 2023/1114).
7. For issuers of e-money tokens that are not subject to the requirement to hold a reserve of assets (because they are either credit institutions or e-money institutions issuing non-significant tokens whose relevant competent authority has not imposed it in accordance with Article 58(2) of Regulation (EU) 2023/1114) the sections 'Allocation of the reserve of assets to meet the token holders' redemption claims' and 'Liquidation of the reserve of assets', both under 4.2., do not apply except for those paragraphs for which there is an express indication to apply them *mutatis mutandis*, likewise for any other paragraph or section in the Guidelines assuming the issuer is subject to said requirement.

Addressees

8. These Guidelines are addressed to competent authorities as defined in Article 3(1), point (35), of Regulation (EU) 2023/1114.
9. These Guidelines are also addressed to issuers, as defined in Article 3(1), point (10), of Regulation (EU) 2023/1114, of:
 - i) asset-referenced tokens defined in Article 3(1), point (6), of that Regulation (issuers of asset-referenced tokens – ARTs); or
 - ii) electronic money tokens defined in Article 3(1), point (7), of that Regulation (issuers of emoney tokens – EMTs).

Definitions

10. Unless otherwise specified, terms used and defined in Regulation (EU) 2023/1114 have the same meaning in the Guidelines.

3. Implementation

Date of application

11. These Guidelines apply from [two months after publication of the translations of the Guidelines into all official languages].

4. Redemption plans

4.1 Proportionality considerations

12. For the sake of proportionality, to determine the level of detail of the content and the frequency of the periodical review of the redemption plan the issuers and the competent authority should take into account the following criteria:
 - i. classification of the ARTs or EMTs as significant in accordance with Articles 43 and 44, and 56 and 57 of Regulation (EU) 2023/1114;
 - ii. for issuers of an ART and for issuers of an EMT which are subject to the requirement to hold a reserve of assets under Regulation (EU) 2023/1114, the size, volatility, composition, concentration and nature of the reserve assets and of the ART or EMT itself;

- iii. multiple outstanding issuances of ARTs or EMTs by the same issuer;
 - iv. issuance of the same ART or EMT by multiple issuers;
 - v. the complexity and risk profile of the issuer's business model, taking into account any other financial or non-financial activity.
13. Redemption plans developed by issuers of a significant ART or EMT, or by multiple issuers in the case of pooled issuance of an ART or an EMT, or by issuers with multiple outstanding issuances or with complex business models and an increased risk profile, as determined, justified and notified by competent authorities, should:
- i. have an increased level of detail and comprehensiveness to demonstrate their credibility, feasibility and timely implementation; and
 - ii. be revised and updated at least on an annual basis.
14. Issuers that do not meet the criteria set out in paragraph 13 should revise and update the redemption plan whenever a change materially impacts the content of the redemption plan. This is without prejudice to the possibility of the competent authority to require institutions to update their redemption plans more frequently.

4.2 General principles and objectives of the redemption plan

15. Where the issuer has more than one outstanding issuance of ARTs or EMTs, the redemption plan of each ART or EMT token should appropriately address the interconnectedness between outstanding ARTs and/or EMTs.
16. The redemption plan, drafted in accordance with these Guidelines, could contain personal data about directors, third parties or key function holders. In compliance with the principle of data minimisation enshrined in Article 5(1), letter (c), of Regulation (EU) 2016/679³⁹⁶, such personal data should be those deemed necessary and sufficient. When drawing up redemption plans and/or when assessing the redemption plan, issuers and competent authorities, respectively, should comply with the relevant provisions of Regulation (EU) 2016/679. Furthermore, in pursuance of data protection principles, such personal data should be kept for no longer than necessary.

Equitable treatment and no undue economic harm

17. Issuers should draw up the redemption plan by laying down the actions and process with a view to ensuring an equitable treatment of all token holders, and the protection of the right of redemption attached to the token as described in the crypto-asset white paper in accordance with Annex II and Annex III of Regulation (EU) 2023/1114, respectively for an ART and for an EMT.
18. For this purpose, the redemption plan should lay down the actions and related processes to ensure among other things the respect of the envisaged time and method for satisfying the right of redemption in accordance with Regulation (EU) 2023/1114 and the white paper.

³⁹⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

19. Unless otherwise disclosed in the crypto-asset white paper or envisaged in the applicable national law, the redemption plan should assume that all token holders with the same redeemable token are treated equally and rank *pari passu*.
20. In order to ensure equitable treatment of all token holders as stated in the crypto-asset white paper, the issuer should include in the redemption plan how the individual redemption of claims will be suspended upon the adoption of the competent authority's decision triggering the implementation of the redemption plan for the orderly and collective redemption of the tokens. For this purpose, the issuer should have regard to the provisions in the crypto-asset white paper and to the applicable law, including Article 46, paragraphs (3) and (4), of Regulation (EU) 2023/1114 and national insolvency law.

Allocation of the reserve of assets to meet the token holders' redemption claims

21. Issuers of ARTs and of EMTs subject to the requirement to hold a reserve of assets should develop the redemption plan on the assumption that the remaining reserve of assets underpinning the relevant ART or EMT will be used for the benefit of all token holders' redemption claims when the issuer is assessed by the competent authority as being unable or likely to be unable to fulfil its obligations towards such holders. This should be without prejudice to the right of the token holders that the portion of their claim (if any) left unsatisfied by the liquidation of the remaining reserve of assets, should be met by the issuer in accordance with the applicable law, including the applicable insolvency law.
22. Taking into account that token holders have a right of redemption at all times and that the redemption plan may not impose undue economic harm on token holders, the redemption plan should indicate how the costs for the implementation of the redemption plan – such as for the appointment of consultants or intermediaries, or in connection with the liquidation of the reserve of assets – will be covered.
23. In order to ensure the effectiveness of the right of redemption and that undue economic harm does not affect the token holders, the issuer should make sure in the redemption plan that the costs for the liquidation of the reserve of assets or otherwise linked to the implementation of the redemption plan may only be allocated to the proceeds of the liquidation of the reserve of assets after the amount for meeting the relevant token holders' redemption claims is set aside.
24. Issuers should also clarify in the redemption plan how such costs do not amount, even indirectly, to redemption fees, which pursuant to Articles 39(3) or 49(6) of Regulation (EU) 2023/1114 may not be imposed on the token holders, without prejudice to Article 46(1)(a) of Regulation (EU) 2023/1114.
25. Costs indicated in the redemption plan should be identified via transparent processes, be reasonable and duly justified.
26. Paragraphs 22-25 should apply *mutatis mutandis* to issuers which are not subject to the obligation to hold a reserve of assets, to the extent consistent with the applicable sectoral legislation.

Liquidation of the reserve of assets

27. In order to meet the token holders' claims in an equitable manner and to avoid undue economic harm, issuers of ARTs or of EMTs subject to the requirement to hold a reserve of assets should develop the redemption plan with the aim of ensuring the maximisation of the proceeds from the liquidation of the remaining reserve of assets within a reasonable timeframe.
28. For this purpose, the issuer should develop redemption scenarios under ordinary and stressed market conditions and lay down liquidation strategies taking into account the composition of the reserve of assets.

29. Having regard to the requirement that the execution of the redemption plan has not to affect the stability of the market of the reserve of assets, such scenarios and strategies should take into account the materiality of the reserve of assets in the underlying market for such assets.
30. When developing such scenarios, issuers subject to the requirement to hold a reserve of assets should take into account the liquidity management policy and procedures of issuers as set out in Article 45(3) of Regulation (EU) 2023/1114 and as specified in accordance with Article 45(7)(b) of Regulation (EU) 2023/1114 and the EBA Guidelines on common reference parameters of the stress test scenarios, mandated under Article 45(8) of Regulation (EU) 2023/1114³⁹⁷.
31. Redemption scenarios should reflect redemption in going concern, in the case of normal insolvency proceedings under national law or in the case of the application of the resolution strategy the issuer would be subject to (if applicable).
32. For the purpose of developing liquidation strategies, issuers may consider that transactions such as repurchase agreements and security financing transactions may be implemented, if they are instrumental to maximising the proceeds, speeding up the process and limiting the impact on the market where the assets are negotiated.
33. Paragraphs 31 and 32 should apply *mutatis mutandis* to issuers which are not subject to the obligation to hold a reserve of assets, to the extent consistent with the applicable sectoral legislation.

Implementation in a timely manner

34. Issuers should ensure that the redemption plan lays down in a pragmatic and operational manner the actions to be taken immediately and in any case without undue delay by the issuer upon the competent authority's adoption of the decision triggering the implementation of the plan under Article 47(1) of Regulation (EU) 2023/1114.
35. The redemption plan should also include comprehensive and organised planning of the phases and related actions necessary to the full implementation of the plan and demonstrate that they achieve the orderly redemption of all the token holders and the consistency of such actions with the crypto-asset white paper. Furthermore, the redemption plan should be drawn up in a comprehensive, self-explanatory and easy-to-understand manner, including for third parties.
36. The phases for the orderly implementation of the plan should include:
 - i. immediate follow-up actions to the decision of the competent authority to trigger the redemption plan, including the activation of the internal processes or of the contractual arrangements for the maintenance in operation of the critical activities;
 - ii. publication of the communication notice informing the token holders about the process and the timeline to submit their redemption claim and the related content;
 - iii. to the extent that it is not included in point (i) above, implementation of the liquidation strategies for the reserve of assets as articulated in the 'Liquidation of the reserve of assets' section above;
 - iv. assessment of the redemption claims;

³⁹⁷ EBA/GL/2024/08.

- v. development of a distribution plan, namely the plan to meet all the submitted and positively assessed redemption claims, using the total amount of the proceeds from the liquidation of the reserve of assets for the issuers subject to the requirement to hold a reserve of assets or, for issuers not subject to the requirement to hold a reserve of assets, using the funds available to meet the redemption claims;
 - vi. arrangements and the timeline for the settlement of the positively assessed redemption claims.
37. The redemption plan should indicate each phase and step where the obligations to fight financial crime have to be fulfilled for purposes of the implementation of the redemption plan and in particular of the execution of the redemption process as described in the section below.
38. In order to meet the requirement that the redemption plan be implemented in a timely manner, the issuer should take into account:
- i. the need to ensure adequate preparedness to support the adoption by the issuer of pragmatic and operational action immediately and in any case without undue delay upon the competent authority's decision to trigger the implementation of the plan under Article 47(1) of Regulation (EU) 2023/1114;
 - ii. the reasonable time to implement the liquidation strategies described in the section on the 'Liquidation of the reserve of assets';
 - iii. the reasonable time allocated to the token holders to file their redemption claim as specified in paragraphs 53-56 below;
 - iv. the time necessary to verify and settle the redemption claim;
 - v. the time necessary to complete the distribution plan having regard to its complexity, including the number of redemption claims that have been submitted.
39. The issuer should indicate in the redemption plan the envisaged arrangements to ensure the safe custody of the proceeds from the liquidation of the reserve of assets pending the settlement of the redemption claims.

4.3 Content of the redemption plan

Governance principles

40. The issuer should make sure that the redemption plan contains a clear and detailed description of the governance arrangements and processes covering its development, review and update as well as its execution. In particular, the redemption plan should:
- i. indicate the member(s) of the management body or any person(s) within the organisational structure of the issuer responsible for the development, update and implementation of the redemption plan;
 - ii. describe how the redemption plan is integrated into the internal control framework as referred to in the EBA Guidelines on the minimum content of the governance arrangements for issuers of ARTs³⁹⁸ or other relevant regulation applicable to issuers of EMTs;

³⁹⁸ EBA/GL/2024/06. Available here: <https://www.eba.europa.eu/sites/default/files/2024-06/611ef3d4-4d67-bf0d4c2b1dd0ef5e/Final%20report%20on%20draft%20Guidelines%20on%20internal%20governance%20of%20issuers%20of%20ARTs.pdf>.

- iii. describe the processes for the update or review of the plan in the case of material changes affecting the business or financial profile of the issuer or of the token(s) issued;
 - iv. identify the critical activities to be kept operational for the implementation of the plan, and identify the person(s) responsible, either on the issuer side or within the third-party provider, in accordance with paragraphs 42-51;
 - v. lay down the process for the adoption of the action of each phase to ensure the timely execution of the redemption plan upon the competent authority's decision in accordance with Article 47(1) of Regulation (EU) 2023/1114; and
 - vi. identify the contact person(s) who are in charge of communication with the token holders, with the competent authority(ies) and with the counterparties and/or with the public, and include those persons' up-to-date contact details within the organisation of the issuer.
41. The redemption plan should duly reflect the impact of the designation of a temporary administrator when foreseen by the applicable law as per Article 47(2) of Regulation (EU) 2023/1114, including the consequence that the management body may not be in charge in full or in part of the implementation of the redemption plan.

Critical activities and contractual arrangements

42. The redemption plan should include a mapping of the critical activities that are necessary for the orderly implementation of the plan. Having regard to the issuer's structural organisation, these may include internal functions of the issuers or functions provided by third parties. Based on the mapping, the redemption plan should lay down the list of such parties and outline the contractual terms in place.
43. Such mapping of the critical activities should include, where relevant, the issuer's risk management function, the trading desk, the treasury or finance function, the relevant ICT functions and systems, the anti-money laundering (AML) function (where existing, depending on the type of issuer), the relationship with the custodian of the reserve of assets (where existing), the interaction with financial intermediaries (where necessary) to access secondary and repo markets for the liquidation of reserve assets, and the relationship with crypto-asset service providers (where needed) for the identification of token holders and the collection of outstanding tokens, or with payment service providers (where needed) to make payments to the token holders assessed as entitled to the redemption claim or for other related activities.
44. Issuers of ARTs which are not obliged entities under Directive 2015/849/EU³⁹⁹ should always explain in the redemption plan how they will involve intermediaries subject to that Directive so that these intermediaries:
- a) perform anti-money laundering and combating the financing of terrorism (AML/CFT) checks, including customer due diligence checks on the token holders that have submitted a redemption claim; and

³⁹⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

- b) comply with their obligations under Regulation (EU) 2023/1113 (Transfer of Funds Regulation)⁴⁰⁰ (see paragraphs 55 and 56 of these Guidelines) with respect to the transfer.
45. With regard to the critical activities within the issuer's organisation, the issuer should include in the redemption plan an overview of the relevant internal arrangements and processes concerning their functioning and operational continuity, including the key person(s) with up-to-date emergency contact details.
46. With regard to the critical activities provided by third parties, the redemption plan should include a list of all such third-party providers, the key contact persons within the issuer and the third party in charge of the contract with up-to-date emergency contact details.
47. The redemption plan should also provide an overview of the content of the contractual arrangements, and illustrate their adequacy, including avoidance of conflicts of interests, for the achievement of the timely and equitable operationalisation of the redemption plan. The issuer should also confirm that such contracts ensure continuity of performance if the redemption plan is activated.
48. With specific regard to the custodians of the reserve of assets and to the financial intermediaries (if any) tasked with the execution of the orders provided by the issuer for the liquidation of the reserve of assets, the contractual terms outlined in the redemption plan should duly reflect the objective that the proceeds from the liquidation of the reserve of assets are maximised for token holders, that best execution for the benefit of the token holders is ensured, and that undue economic harm to token holders is avoided.
49. The list of third-party providers of critical activities and the contractual terms should be kept up to date by the issuer. Where relevant, contracts with the most significant third-party providers, including with the custodians, may be included as annexes to the redemption plan.
50. The overview of the contractual arrangements in place with third-party providers of critical activities should not prevent the issuer, if need be, from entering into contractual arrangements with any other required intermediaries at the moment of the activation of the redemption plan if this would contribute to a more effective implementation of the plan.
51. For that purpose, the redemption plan should at least clearly and operationally illustrate the selection process of the intermediaries, include a summary of proposed key contractual terms (such as tasks, timing or costs), and include a provisional term sheet as an annex to the redemption plan with a list of potential contractual partners with whom the issuer has engaged in some discussions/negotiations, as well as the selection criteria.

Process for the orderly redemption of token holders' claims

52. The issuer should make sure that the redemption plan lays down an orderly process for the redemption of the token holders' claims and that this is expressed and communicated in clear, accessible and comprehensible language in line with the guidance on the communication plan in the relevant section.
53. Such a process should be articulated in an operational manner and ensure that the token holders' redemption claims are paid in a timely manner, consistently with the requirements laid down in Article 47 of Regulation (EU) 2023/1114 and with the content of the crypto-asset white paper.

⁴⁰⁰ Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ L 150, 9.6.2023, p. 1).

54. For this purpose, the redemption plan should describe the processes, the measures to identify and address money laundering and terrorism financing (ML/TF) risks applied by the issuer, and technical facilities adopted or envisaged to be in place to process:
- i. the identification of token holders and their entitlement to the redemption of the tokens;
 - ii. the collection and permanent removal from circulation of redeemed tokens; and
 - iii. the subsequent payout or delivery of assets to the token holders.
55. The description of the process should include reference to the compliance with applicable AML/CFT obligations. In particular, the redemption plan should:
- a) in respect of point (i) in paragraph 54 above, refer to the execution of the customer due diligence measures applicable in accordance with Directive 2015/849/EU to the token holders submitting the redemption claim;
 - b) in respect of point (iii) in paragraph 54 above, refer to the checks on the information accompanying the transfer of funds in accordance with Regulation (EU) 2023/1113, where applicable.

Competent authorities should exercise powers and perform tasks in relation to redemption as specified in these Guidelines in effective collaboration and exchange of information with authorities competent for the prevention of money laundering and combating of terrorist financing in accordance with Article 94(5) of that Regulation.

56. The redemption plan should clearly indicate the requirements and the minimum content of the redemption claim to be filed by the token holders, which should include:
- a) the identity and contact details of the individual holders (name, address, e-mail and/or phone number), indicating that any personal data would be treated in line with Regulation (EU) 2016/679;
 - b) the evidence that the person that files the claim is the token holder and is therefore entitled to the redemption right for which the redemption claim is filed and the necessary warranties (if any) from the token holder's side in accordance with the crypto-asset white paper;
 - c) the information necessary to identify, assess and manage any risk of money laundering and terrorist financing including for the execution of the customer due diligence on token holders at redemption in accordance with Directive 2015/849/EU;
 - d) the number of the relevant tokens held (including fractional holdings) and the public blockchain addresses covered by the wallet where the tokens are held (where applicable); and
 - e) the indication of the token holder's bank or payment account for the transfer of the funds in repayment of the redemption claim, or similar data required to deliver the assets for the redemption (where applicable). Such bank or payment accounts should preferably be held with EU credit or payment institutions and in any case should not be held in high-risk third countries for purposes of ML/TF risk as referred to in Article 9 of Directive 2015/849/EU.
57. The information listed above and included in the redemption claim should also permit the issuer to assess token holders' entitlement to redemption, which is preliminary to permitting the collection and permanent removal of the redeemed tokens from circulation. For this purpose, the redemption plan should specify how the mechanism of delivery of the token against the payment will be implemented. Notably it should

indicate how each redeemed token will be collected and subsequently taken out of circulation (or 'burnt') by the issuer and will no longer be able to be recirculated, exchanged, transferred or sold by any party.

58. The redemption plan should also clarify the relevant sources of information, and the envisaged actions and process that will be implemented or relied upon to reconcile the number of tokens claimed for redemption with the number of outstanding tokens.
59. The redemption plan should include all relevant steps, actions and processes to develop the distribution plan to repay the token holders that have submitted a redemption claim that has been positively assessed.

Communication plan

60. The redemption plan should include a communication plan to be activated without delay upon the adoption of the competent authority's decision to trigger the implementation of the redemption plan in accordance with Article 47(1) of Regulation (EU) 2023/1114.
61. The communication plan should include at least the following:
 - a) the draft public notice to be communicated to the public; and
 - b) the draft communication notices with the third-party providers of critical activities to be contacted immediately upon the activation of the redemption plan. Where communication notices have been agreed upon in the relevant contracts, they should be annexed to the redemption plan.

The issuer should ensure consistency of the communication plan for redemption of the token holders with other existing communication plans.

62. The draft public notice should be developed in order to inform the token holders of the activation of the redemption plan upon the competent authority's decision with a view to redeeming the tokens in an orderly, timely and equitable manner without imposing undue economic harm and in accordance with the terms set out in the crypto-asset white paper.
63. With a view to reaching the general public and the maximum number of token holders, the redemption plan should indicate the media channels where the notice should be published. In doing so, the issuer should privilege those normally used by the issuer to communicate to the public and to the market and to advertise its products and services.
64. The draft public notice should describe in clear and non-technical language the main steps of the redemption process and the actions that token holders are expected to undertake within the indicated timeframe to have their token redeemed.
65. For these purposes the draft public notice should include at least:
 - a) the exact date and time when the redemption plan has been activated based on a decision of the competent authority;
 - b) the minimum content of the redemption claim as set out in paragraph 56 of these Guidelines;
 - c) the timeframe, as of the publication of such a notice, within which the token holders are required to file their redemption claim with the issuer or (where applicable) the third-party service providers, in accordance with what is indicated in the white paper; and

- d) the modality, technical support and location where the token holders should file their redemption claim, e.g. the exact portal of the issuer or – where applicable – of a third party. The solution(s) adopted should not discriminate against token holders, e.g. because of their place of residence.

Issuance of the same ART or EMT by multiple issuers

- 66. When an ART is issued by multiple issuers, or when a significant EMT is issued by multiple issuers other than credit institutions, Regulation (EU) 2023/1114 provides that a single reserve of assets has to be set up to ensure a proper stabilisation mechanism of the token.
- 67. In the light of this, the redemption plan should be articulated in two sections: the first common to all issuers and agreed upon by all issuers, the second specific to each issuer.
- 68. Issuers should coordinate to develop and agree on the common section of the redemption plan, which should contain at least the following parts:
 - i. the general principles and objectives governing the redemption plan as stated in the 'General principles and objectives of the redemption plan' section of these Guidelines;
 - ii. the 'Critical activities and contractual arrangements' section of these Guidelines with a view to identifying the critical activities under the control of which issuer should be operational for the effective implementation of the common redemption plan;
 - iii. the 'Process for the orderly redemption of token holders' claims' section;
 - iv. the 'Communication plan' section;
 - v. the effective coordination between the issuers for the development, review and update of the redemption plan;
 - vi. the effective coordination between the issuers for the orderly implementation of the plan upon its activation by decision of the competent authority; and
 - vii. the commitment of all issuers to fully and faithfully comply with the terms of the redemption plan commonly agreed upon.
- 69. To ensure proper coordination, the issuers in the redemption plan should appoint one of them as coordinator without prejudice to the respective accountability of each issuer. The latter could be selected having regard to the comparative experience of the different issuers in the business and the level of maturity of their internal organisation, to the role in the interaction with the custodians and other third-party providers or intermediaries, and to the materiality of their participation in the issuance. Coordination tasks could include the development, review and update of the redemption plan, the implementation of the section on the communication plan, and the coordination of the management and execution of the redemption plan.
- 70. The second section of the redemption plan should be specifically tailored to the internal organisation of each issuer. In particular, issuers should lay down appropriate measures aimed at ensuring the application of:
 - i. the 'Governance principles' section of these Guidelines; and

- ii. the 'Critical activities and contractual arrangements' section, having regard to the critical activities within the issuer's organisation or provided by third parties that need to be operational for the effective implementation of the redemption plan.
71. Competent authorities of each issuer participating in the issuance should in timely fashion consult each other and cooperate on the assessment of the redemption plan submitted by the issuers.
72. Competent authorities should consult each other and cooperate to assess whether any grounds for triggering the redemption plan are met. Competent authorities should avoid activating the redemption plan whenever the adverse effects on the outstanding ART or EMT deriving from the inability or likely inability of one issuer to fulfil its obligations are remedied without delay by one or more other issuers, in a manner that avoids a negative impact on the confidence of the token holders, on the rights of the token holders or on the stability of the markets.

Interaction of the redemption plan with other proceedings

73. The issuer should take into account that, whilst the recovery plan, developed in accordance with Article 46 of Regulation (EU) 2023/1114, and the redemption plan are two separate documents addressing two different phases and situations of the issuer's potential crisis, they should be consistent in particular as regards internal governance and risk management arrangements, processes and identification of IT systems and critical activities.
74. When the issuer is a credit institution or an entity within the scope of application of Directive 2014/59/EU⁴⁰¹ or is a central counterparty subject to Regulation (EU) 2021/23⁴⁰², the issuer should develop the redemption plan consistently with its resolution plan and resolvability requirements. To this end, the issuer should take into account the entity's resolution strategy, the identified critical functions and service level arrangements that are instrumental to the entity's operational continuity, and should endeavour to ensure smooth operation of the resolution strategy and of the redemption plan at the same time.
75. In the event that the actions, contractual arrangements, procedures and systems envisaged by the issuer in the redemption plan would be likely to have any adverse impact on the entity's resolvability, the issuer should bring them to the attention of the resolution authority in a note as an annex to the redemption plan. This is without prejudice to the resolution authority's review of the redemption plan having regard to the entity's resolvability and to its power to address recommendations to the competent authority in accordance with Article 47(4) of Regulation (EU) 2023/1114.
76. Considering that the resolution plan is developed by the resolution authority and that the redemption plan is developed by the issuer, the two plans will be separate documents.

4.4 Periodicity of the review and update

⁴⁰¹ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

⁴⁰² Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 (OJ L 22, 22.1.2021, p. 1).

77. In order to ensure that redemption plans are maintained operational and effective at all times, issuers should regularly review and update such plans, including in cases of material changes affecting the issuer or its business environment as further described in paragraph 79, and submit the revised redemption plan to the competent authority for its assessment. Any change to the recovery plan should lead to a prompt and timely review of the redemption plan to assess whether it remains consistent with the new version of the recovery plan.
78. The frequency of the review should take into account the principle of proportionality as articulated in paragraph 12 and the guidance on the frequency of the review of the redemption plan as per paragraphs 13 and 14.
79. The redemption plan should also be promptly reviewed and updated by the issuer upon the occurrence of material changes, in particular relating to:
- i. the issuer's business model or organisational structure;
 - ii. the nature of the token, including rights and obligations attached to the token;
 - iii. market conditions affecting the issuer or the reserve of assets or the use of the token;
 - iv. emergence of any unknown vulnerability, especially in relation to ICT risk or cyber attack, which would result in ineffectiveness of the plan; and
 - v. legal, regulatory or supervisory aspects.

4.5 Triggers

80. In accordance with Article 47(1) of Regulation (EU) 2023/1114, the implementation of the redemption plan is triggered by the competent authority's decision that the issuer is 'unable or likely to be unable to fulfil its obligations'.
81. In addition to the situations expressly mentioned in Article 47(1) of Regulation (EU) 2023/1114, namely the issuer's (i) insolvency, (ii) resolution (where applicable) or (iii) withdrawal of authorisation, these Guidelines further specify the elements for the competent authority's assessment as to whether the issuer is 'unable or likely to be unable to fulfil its obligations' under Regulation (EU) 2023/1114.
82. In the case of commencement of crisis prevention measures or crisis management measures as defined in Article 2(1), points (101) and (102), of Directive 2014/59/EU or a resolution action as defined in Article 2, point (11), of Regulation (EU) 2021/23, the competent authority should not trigger the redemption plan without prior consultation and coordination with the relevant prudential or resolution competent authorities under Directive 2013/36/EU⁴⁰³, Directive 2014/59/EU or Regulation (EU) 2021/23 if the issuer is subject to these Directives and this Regulation.
83. For purposes of assessing whether the issuer is 'unable or likely to be unable to fulfil its obligations' under Regulation (EU) 2023/1114, the competent authority should have regard, inter alia, to the aspects listed in points (i) to (iii) of paragraph 84, exclusively relating to the requirements set out in Title III or Title IV, as applicable, of Regulation (EU) 2023/1114 and within the scope of supervision of the competent authority.

⁴⁰³ Directive of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

84. The aspects that the competent authority should inter alia have regard to when assessing whether the issuer is 'unable or likely to be unable to fulfil its obligations' under Regulation (EU) 2023/1114 are the following:
- i. capital position of the issuer: infringement of the requirements under Article 35(1) to (5) and Article 45(5) of Regulation (EU) 2023/1114;
 - ii. liquidity position of the issuer under applicable requirements set out in Regulation (EU) 2023/1114 and/or of the reserve of assets:
 - infringement of the liquidity requirements, or, if subject to a requirement to hold a reserve of assets, of the requirements relating to the level and composition of the reserve of assets set out in Chapters 3 and 5 of Title III of Regulation (EU) 2023/1114, including any specification in accordance with Articles 36(4), 38(5) and 45(7)(b) of that Regulation, once the relevant delegated regulations apply, in a way that would justify the withdrawal of the issuer's authorisation by the competent authority;
 - being unable to pay debts and liabilities as they fall due; and
 - having the reserve of assets lower than liabilities;
 - iii. with respect to issuers of ARTs authorised in accordance with Article 21 of Regulation (EU) 2023/1114, other requirements for continuing authorisation:
 - in relation to governance arrangements: accumulation of material weaknesses or deficiencies in key areas of the governance arrangements or internal control functions, including risk management and ICT risk management, which alone or together have a material negative prudential impact on the issuer and/or its operational resilience; or any other elements considered relevant by the competent authority;
 - material deficiencies which in combination can have a material negative prudential impact on the issuer, such as major reputational depreciation arising from a lack of transparency in the conduct of business and operations or incomplete/inaccurate disclosure of information.
85. When assessing the issuer's inability or likely inability in the near future to comply with the applicable requirements as determined also by the factors above, the competent authority should base its determination also on elements including among other things:
- i. significant adverse developments in the macroeconomic environment that are likely to threaten the issuer's position as regards own funds, liquidity requirement and/or assets backing the redemption rights of the token holders, including relevant developments in interest rates, market freeze or economic growth; such developments should significantly adversely affect the issuer's business model, the outlook for its profitability, its liquidity position, its viability and its reserve of assets;
 - ii. significant deterioration of market perception of an issuer, for instance due to obstacles to prompt access to the assets backing the redemption rights of token holders, such as deterioration in the solvency profile of the credit institution holding the issuer's deposits or providing custodial services, or negative volatility of the highly liquid financial instruments in the reserve of assets or the high-quality liquid assets composing the liquidity coverage ratio (LCR) requirement;
 - iii. significant deterioration of the market conditions, likely leading to a run on the ART or EMT by the token holders, due to, among other things, any large and/or persistent negative divergence between the market value of the token and the market value of the assets referenced, idiosyncratic shock

relating to specific assets referred to by the ART or EMT, increasing and high instability of the crypto market, interconnectedness between the financial system and the crypto activities in issuers that might act as a contagion channel for the crisis (idiosyncratic or market wide), or loss of confidence of the token holders.

86. The factors and elements listed in these Guidelines, respectively in paragraphs 84 and 85, should be carefully analysed on a comprehensive basis and justified. The determination that an issuer is unable or likely to be unable to fulfil its obligations should remain subject to an expert judgement and should not be automatically derived from any of the elements described herein. This is especially true as regards the interpretation of the elements which may be affected by factors not directly related to the situation of the issuer.
87. When determining the issuer's inability or likely inability in the near future to fulfil its obligations under Regulation (EU) 2023/1114, the competent authority should base its decision, inter alia, on the assessment of the elements described in this section and taking into account, where relevant, the failure of the prior activation of recovery options envisaged in the recovery plan developed by the issuer in accordance with Article 46 of Regulation (EU) 2023/1114 or the failure of the recovery options to remedy the distressed situation. Nevertheless, the prior activation of the recovery plan should not be a necessary condition for the activation of the redemption plan.
88. In most cases it is expected that several factors, rather than merely one, set out in this section would inform the competent authority's determination that an issuer is unable or likely to be unable to fulfil its obligations. Nevertheless, there might be situations where meeting just one condition, depending on its severity and prudential impact, would be sufficient to support the competent authority's decision to trigger the redemption plan.

APPENDIX 50: JOINT EBA AND ESMA GUIDELINES ON THE ASSESSMENT OF THE SUITABILITY OF MEMBERS OF THE MANAGEMENT BODY OF ISSUERS OF ASSET-REFERENCED TOKENS AND OF CRYPTO-ASSET SERVICE PROVIDERS

(ESMA75-453128700-10 - EBA/GL/2024/09 – 27 June 2024)

A. Compliance and reporting obligations

Status of these Guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁴⁰⁴ and to Article 16 of Regulation (EU) No 1095/2010⁴⁰⁵. In accordance with Article 16(3) of Regulation (EU) No 1093/2010 and of Regulation (EU) No 1095/2010, competent authorities, financial market participants and financial institutions must make every effort to comply with these guidelines. These guidelines set out appropriate supervisory practices within the European System of Financial Supervision and of how Union law should be applied.
2. Competent authorities as defined in Article 3(1) point (35)(a) of Regulation (EU) 2023/1114 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at financial market participants and financial institutions.

Reporting requirements

3. Within two months of the date of publication of these guidelines on EBA's and ESMA's website in all EU official languages, according to Article 16(3) of Regulation (EU) No 1093/2010 and of Regulation (EU) 1095/2010, competent authorities must notify the EBA or ESMA as to whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with these guidelines. In case of non-compliance, competent authorities must also notify ESMA or EBA within two months of the date of publication of these guidelines on ESMA's and EBA websites in all EU official languages of their reasons for not complying with these guidelines. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA or to ESMA.
4. Financial market participants and financial institutions are not required to report whether they comply with these guidelines.
5. Notifications will be published on the EBA website, in line with Article 16(3) of Regulation (EU) No 1093/2010 and on the ESMA website, in line with Article 16(3) of Regulation (EU) No 1095/2010.

2. Subject matter, scope and definitions

Subject matter

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

405 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Securities and Market Authority (European Securities and Market Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, (OJ L 331, 15.12.2010, p. 84).

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1. In accordance with Article 21(3) and Article 63(11), of MiCA, these joint guidelines concern the assessment of the suitability of members of the management body of issuers of ARTs and CASPs

Scope of application

2. These Guidelines apply at authorisation and on an ongoing basis to competent authorities, as defined in Article 3(1) point (35) (a) of MiCA, issuers of ARTs and CASPs⁴⁰⁶, in accordance with Articles 34(2) and 68(1) of MiCA with regard to the assessment of suitability of members of the management body of
 - a. an applicant issuer of ARTs seeking for an authorisation under Article 18 of MiCA or authorised in accordance with Article 21 of that Regulation (“issuer of ART” for the purpose of these Guidelines),
 - b. an applicant CASP seeking for an authorisation under Article 62 of MiCA, or a CASP authorised in accordance with Article 63 of that Regulation (“CASP” for the purpose of these Guidelines), or, with reference to Article 68(1) of MiCA, providing crypto-asset services as part of their authorisation in accordance with paragraphs (2), (4), (5) and (6) of Article 60 of MiCA.
3. The suitability assessment is based on the requirement that members of the management body of issuers of ARTs and CASPs must meet the criteria set out in Articles 34(2) and 68(1) respectively, which provide that members of the management body shall be of sufficiently good repute and capable of committing sufficient time to effectively perform their duties as well as the assessment of whether members of the management body have the individually and collectively appropriate knowledge, skills and experience to perform their duties. Members of the management body of issuers of ARTs and CASPs shall not have been convicted of offences relating to money laundering or terrorist financing or of any other offences that would affect their good repute. The members of the management body to be assessed include persons that will become members of the management body of an issuer of ARTs or a CASP and members that have already taken up their position. Where the management body consists of a management and a supervisory function, these Guidelines apply to both functions and members of both functions⁴⁰⁷.)

Addressees

4. These Guidelines are addressed to competent authorities as defined in Article 3(1) point (35)(a) of MiCA.
5. These Guidelines are also addressed to:
 - a. issuers, as defined in Article 3(1), point (10) of MiCA, authorised in accordance with Article 21 of that Regulation,
 - b. applicant issuers, as defined in Article 3(1), point (11) of MiCA applying for an authorisation under Article 18 of that Regulation,
 - c. CASPs, as defined in Article 3(1), point (15) of MiCA, authorised in accordance with Article 63 of that Regulation, or – with reference to Article 68(1) of MiCA – providing crypto-asset services as part of their authorisation in accordance with paragraphs (2), (4), (5) and (6) of Article 60 of MiCA.

⁴⁰⁶ According to Article 60(10) of Regulation (EU) 2023/1114 the entities listed in Article 60, paragraphs (1) to (6) are not subject to, among others, Article 63 of Regulation (EU) 2023/1114.

⁴⁰⁷ Article 3(1), point 27 of Regulation (EU) 2023/1114 defines the management body as ‘the body or bodies of an issuer, offeror or person seeking admission to trading, or of a crypto-asset service provider, which are appointed in accordance with national law, which are empowered to set the entity’s strategy, objectives and overall direction, and which oversee and monitor management decision-making in the entity and include the persons who effectively direct the business of the entity’.

- d. Applicant CASPs who submitted an application for an authorisation in accordance with Article 63 of MiCA.

Definitions

6. Terms used and defined under MiCA and the ‘Joint EBA-ESMA guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU’, have the same meaning in these guidelines, in addition, the following definitions apply:

Group	means a group as set out in Article 2 point 11 of Directive 2013/34/EU.
Management body in its management function	means the management body acting in its role of directing effectively the issuer of ARTs or CASP and includes the persons who direct its business.
Management body in its supervisory function	means, where established, the management body acting in its role of overseeing and monitoring management decisionmaking.
Directorship	means a position as a member of the management body of an institution or another legal entity. Where the management body, depending on the legal form of the entity, is composed by a single person, this position is also counted as a directorship.
Member	means a proposed or appointed member of the management body including acting on behalf of legal persons being a member of the management body.
Suitability	means in the context of a member of the management body that an assessed individual is deemed to have sufficient good repute, including honesty and integrity, and to have, individually and collectively with other members, appropriate knowledge, skills and experience and is individually able to commit sufficient time to perform the duties the member is responsible for.

B. Implementation

Date of application

7. These guidelines apply from dd.mm.yyyy [“Please insert date [2] months after the date of publication of the guidelines in all EU official languages (date of issuance of the guidelines) on the ESMA and EBA websites”].

C. Joint Guidelines

C1. Application of the proportionality principle

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8. The proportionality principle aims to match governance arrangements consistently with the individual risk profile and business model of issuers of ARTs and CASPs, taking into account the individual position within the management body for which an assessment is made so that the objectives of the regulatory requirements, i.e. that the member is suitable regarding the specific position individually and suitable to be part of the collective management body, are effectively met.
9. Issuers of ARTs, CASPs and competent authorities should take into account the size of the issuer of ARTs or the CASP, its internal organisation and the nature, scale, and complexity of the assets issued and the services provided when assessing the individual and collective sufficient knowledge, experience and skills of members of the management body and that members individually are capable of committing sufficient time to effectively perform their duties in parallel to other obligatory time commitments they have.
10. Issuers of significant ARTs should have more sophisticated suitability policies and assessment processes as compared to issuers of non-significant ARTs. The same applies to CASPs, considering their size and the class of crypto asset services provided in accordance with Annex IV of MiCA.
11. All members of the management body of issuers of ARTs and CASPs should be of sufficiently good repute and have honesty and integrity regardless of the firm's size, internal organisation and the nature, scope and complexity of its activities, and the duties and responsibilities of the specific position.
12. For the purpose of applying the principle of proportionality when assessing the suitability of members as regards the knowledge and experience criteria as well as the members ability to commit sufficient time, the following criteria should be taken into account by issuers of ARTs, CASPs and competent authorities:
 - a. the size of the issuer of ARTs or of the CASP in terms of the balance sheet total,
 - b. the legal form of the issuer of ARTs or CASP and if it is listed or not,
 - c. whether the issuer of ARTs or CASP is part of a group, and if so, the proportionality assessment for the group,
 - d. the nature and complexity of all business activities,
 - e. whether cross borders activities are provided and the size of the operations in each jurisdiction,
 - f. in the case of an issuer of ARTs the following additional criteria:
 - (i) the volume and number of ARTs issued,
 - (ii) the size of the reserve of assets held by issuers of ARTs,
 - (iii) the type and complexity of the assets a token is referenced to,
 - (iv) the complexity of the instruments in which the reserve of assets are invested in.
 - g. In the case of a CASP the following additional criteria:
 - (i) the type and volume of services provided and their criticality for the functioning of markets in crypto assets,
 - (ii) the type of clients.

C2. Notions of suitability under Articles 34(2) and 68(1) of MiCA

C.2.1 Sufficient good reputation

13. When assessing if the members of the management body of an issuer of ARTs or CASP are of good reputation the assessment should cover in accordance with Articles 18(5)(a) and 62(3)(a) of MiCA the absence of a criminal record in respect of convictions and the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law or in relation to anti-money laundering legislation and counter-terrorist financing, to fraud or to professional liability. The assessment should in addition cover any other known facts that could lead to the assessment that the member is not of sufficiently good reputation as specified in this section. Those requirements apply on an ongoing basis in accordance with Articles 34(2) and 68(1) MiCA.
14. Members of the management body should not have been subject to sanctions, embargoes or measures that are related to terrorism, financing of terrorism or proliferation decided by a Member State, the Union or international organisation, e.g. United Nations. Where a member of the management body is added to such list of targeted financial sanctions, this member should be forbidden to perform its function and be removed from the management body.
15. The assessment of the good reputation criteria of members of the management body of an issuer of ARTs or an CASP should be performed on the basis of the information referred to in the Commission Delegated Regulations adopted pursuant to Articles 18(6) of MiCA in the case of an issuer of ARTs and Article 62(5) of that Regulation in the case of CASPs.

C.2.2 Individual appropriate knowledge, skills and experience

16. Members of the management body should have an up-to-date understanding of the business activities of the issuer of ARTs or of the CASP and all its risks, at a level commensurate to their responsibilities. This includes an appropriate understanding of those areas for which an individual member is not directly responsible but is collectively accountable together with the other members of the management body.
17. Members of the management body should have a clear understanding of the issuer of ARTs or of the CASP's governance arrangements, their respective role and responsibilities and, where applicable, the group structure.
18. Members of the management body should understand the conflicts of interest that may exist between the issuer of ART or the CASP and any of its stakeholders.
19. Members of the management body should be able to contribute to the implementation of an appropriate corporate and risk culture, corporate values and behaviour within the management body to conduct the business in a competent and responsible manner.
20. The assessment of appropriate knowledge, skills and experience should consider:
 - a. the role and duties of the position and the required capabilities;
 - b. the knowledge and skills attained through education, training and practice;
 - c. the practical and professional experience gained in previous positions and other current directorships; and
 - d. the knowledge, skills and experience acquired and demonstrated by the professional conduct of the member.

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21. The level and profile of the education of the member and whether or not it relates to the financial sector, including crypto-assets markets, or other relevant areas should be considered. In particular, education in the areas of finance, including crypto assets, economics, law, accounting, auditing, administration, financial regulation, information technology, and quantitative methods can in general be considered to be relevant for financial entities, including issuers of ARTs and CASPs.
22. The assessment should not be limited to the educational degree of the member or proof of a certain period of service in a financial entity, issuer of ARTs or CASP or other firms in areas related to markets in crypto assets and other financial markets. A more thorough analysis of the member's practical experience with regard to the activities of the issuer of ARTs or of the CASP should be conducted, as the knowledge gained from previous occupations depends on the nature, scale and complexity of the business as well as the function that the member performed within it.
23. To properly assess the skills of the members of the management body, issuers of ARTs and CASPs should consider using the non-exhaustive list of relevant skills set out in Annex II to the Joint EBA and ESMA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU, taking into account the role and duties of the position occupied by the member of the management body.
24. When assessing the adequate knowledge and experience of a member, consideration should be given to theoretical and practical experience relating to:
 - a. financial markets regulation in particular with regard to financial instruments, as defined in Article 4(1), point (15) of Directive 2014/65/EU and DLT financial instruments as defined in Article 2(1)(11) of Regulation (EU) 2022/858;
 - b. crypto assets, including asset-referenced and e-money tokens;
 - c. the relevant understanding of the different nature of different kinds of crypto assets;
 - d. risk management principles and procedures;
 - e. the management of liquidity risks, market and credit risk in relation to the business activities of the issuer of ARTs or of the CASP;
 - f. requirements under Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector⁴⁰⁸;
 - g. requirements regarding the use of third-party providers, including outsourcing arrangements and third-party provider management;
 - h. accounting and auditing;
 - i. anti-money laundering and antiterrorist financing obligations;
 - j. data protection requirements;
 - k. the ability to assess the effectiveness of an issuer of ARTs or CASPs' arrangements that ensure effective governance, oversight and internal controls;

⁴⁰⁸ OJ L 333, 27.12.2022, p. 1–79

- l. the interpretation of financial information and the identification of key issues based on this information;
 - m. managerial knowledge, including strategic planning, the understanding of an institution's business strategy or business plan and accomplishment thereof;
 - n. the ability to present their views, discuss strategies and business objectives; and
 - o. where the members position is within an issuer of ARTs, the relevant legal requirements for the issuing of ARTs.
- 25. With reference to point i. above, without prejudice to the national transposition of Directive 2015/849/EU, the member of the management body of CASPs identified as responsible for the implementation of the laws, regulations and administrative provisions necessary to comply with Directive (EU) Directive 2015/849/EU should have good knowledge, skills and relevant experience regarding ML/TF risk identification and assessment, and AML/CFT policies, controls and procedures. This person should have a good understanding of the extent to which the institution's business model exposes it to ML/TF risks.
- 26. When assessing the practical and professional experience gained from previous positions, particular consideration should be given to:
 - a. the nature of the position held and its hierarchical level;
 - b. the length of service within a position;
 - c. the number of subordinates;
 - d. the nature and complexity of the business where the position was held, including its organisational structure;
 - e. the scope of competencies, decision-making powers, and responsibilities of the member;
 - f. the technical knowledge gained through the position;
 - g. additional knowledge gained from academical activities.
- 27. Where applicable, members of the management body in its supervisory function should be able to challenge the decisions of the management body in its management function and other relevant management decisions where necessary and to effectively oversee and monitor management decision-making.

C.2.3 Collective appropriate knowledge, skills and experience

- 28. The composition of the management body should ensure that it has collectively the appropriate knowledge, skills and experience necessary to conduct all the business activities of the issuer of ARTs or of the CASP and to fulfil all of its responsibilities. This includes that the management body collectively has an appropriate understanding of all business areas and activities of the issuer of ARTs or of the CASP. The management body, as a whole, should also have appropriate knowledge, skills and experience with regard to the aspects listed under section C.2.2 and in addition regarding:
 - a. The effective, sound and prudent management of the issuer of ARTs or of the CASPs, including:
 - (i) business continuity management,

- (ii) the adequate consideration of the interest of its clients and the integrity of the market,⁴⁰⁹
 - (iii) the management of main risks related to the creation, use and management of crypto assets, the management of operational risks, including cyber risk,
 - (iv) the implementation of fraud detection and prevention measures,
 - (v) ESG factors and ESG risks, in particular regarding the consensus mechanism,
- b. the legal and regulatory environment,
 - c. contractual law,
 - d. consumer protection,
 - e. information and communication technology and security, including, where relevant, the applied consensus mechanisms,
 - f. distributed ledger or similar technologies relevant for their business activities,
 - g. financial accounting and reporting,
 - h. the activities of the risk management, compliance and internal audit functions or procedures, including the setting up of those functions or procedures,
 - i. relevant local and cross-borders financial markets, including relevant trading platforms,
 - j. managerial skills and experience,
 - k. the ability to plan strategically,
 - l. the management of groups and risks related to group structures, where the issuer of ARTs or CASP is a parent company of the group.

C.2.4 Sufficient time commitment of members of the management body

- 29. Members of the management body of issuers of ARTs, in accordance with Articles 34(2) of MiCA, or members of the management body of a CASP, in accordance with Article 68(1) of that Regulation, should be able to commit sufficient time to perform their functions and responsibilities. This includes that they are able to commit sufficient time in light of other obligations they might have.
- 30. Members should also be able to fulfil their duties in periods of particularly increased activity, or as a result of some major difficulty with one or more of its operations, taking into account that in such periods a higher level of time commitment than in normal periods may be required.
- 31. In the assessment of sufficient time commitment of a member, issuers of ARTs and CASPs should take at least the following into account:
 - a. the number of directorships in financial entities and other companies held by that member at the same time, taking into account possible synergies between different directorships, e.g. in a group

⁴⁰⁹ See RTS on conflict of interest

- context, including when acting on behalf of a legal person or as an alternate of a member of the management body;
- b. the directorships in organisations which do not pursue predominantly commercial objectives held by that member at the same time;
 - c. the size, nature, scope and complexity of the activities of the entity where the member holds a directorship and, in particular, whether or not the entity is a non-EU entity;
 - d. the member's geographical presence and the travel time required for the role;
 - e. the number of meetings scheduled for the management body;
 - f. any necessary meetings to be held, in particular, with competent authorities or other internal or external stakeholders outside the management body's formal meeting schedule;
 - g. the nature of the specific position and the responsibilities of the member, including specific roles such as CEO, chairperson, or chair or member of a committee, whether the member holds an executive or non-executive position, and the need of that member to attend meetings in the companies listed in points (a) and (b) and in the financial entity;
 - h. other external professional or political activities, and any other functions and relevant activities, both within and outside the financial sector and both within and outside the EU;
 - i. the necessary induction and training;
 - j. any other relevant duties of the member considered necessary to be taken into account in the assessment as they oblige the member to commit time.
32. Issuers of ARTs and CASPs should record the roles, duties and required capabilities of the various positions within the management body and the expected time commitment required for each individual position, also taking into account the need to devote sufficient time for induction and training. For this purpose, CASPs that fall under class 1 of Annex IV of MiCA and issuers of non-significant ARTs should differentiate the expected time commitment between members of the management body in its management function and members of the management body in its supervisory function rather than for the individual positions within those functions.
33. A member of the management body should be made aware of the expected time commitment. Issuers of ARTs and CASPs may require the member to document the ability to devote the required time to the role in an appropriate way.
34. Issuers of ARTs and CASPs should monitor whether the members of the management body commit sufficient time to perform their functions. Preparation for meetings, attendance and the active involvement of members in management body meetings are all indicators of time commitment.
35. The impact of any long-term absences of members of the management body should be considered in the assessment of the sufficient time commitment of other individual members of the management body.
36. Issuers of ARTs and CASPs should keep records of all external professional and political positions held by the members of the management body. Such records should be updated whenever a member notifies the issuer of ARTs or the CASP of a change and when such changes come otherwise to the attention of the issuer of

ARTs or CASP. Where such changes occur that may reduce the ability of a member of the management body to commit sufficient time to perform the members function, the issuer of ARTs or CASP should re-assess the member's ability to dedicate sufficient time to the function.

C3. Suitability assessments of members of the management body by Issuers of ARTs and CASPs

37. Issuer of ARTs and CASPs should have the primary responsibility for ensuring, in accordance with Articles 34(2) and 68(1) of MiCA, that the management body collectively and its members individually are suitable at all times. They should ensure that the members of the management body have collectively and individually appropriate knowledge, skills and experience to ensure the effective, sound and prudent management and business continuity of the firm and the adequate consideration of the interest of their clients and the integrity of the market.
38. Issuers of ARTs and CASPs should ensure that all members of the management body are of sufficiently good repute, taking into account the criteria referred to in Section C.2.1, and are able to commit sufficient time to effectively perform their duties at all times taking into account the criteria in Section C.2.4.
39. Without prejudice to the shareholders' approval, the management bodies of issuers of ARTs and CASPs should adopt a suitability policy. The policy should include principles on the selection, monitoring and succession planning of its members and for re-appointing existing members and should set out at least the following:
 - a. the process for the selection, appointment, re-appointment and succession planning of members of the management body and the applicable internal procedure for the assessment of the suitability of members, including the internal function responsible for providing support for the assessment (e.g. human resources);
 - b. the criteria to be used in the assessment, which should include the suitability criteria set out in these Guidelines;
 - c. the criteria on the composition of the management body, including how diversity aspects in terms of gender, age, educational and professional background and geographical provenance of members of the management body are to be taken into account and, where applicable, how targets regarding the appropriate gender balance will be met;
 - d. the communication channel with the competent authorities; and
 - e. how the assessment and its result should be documented, including the setting of an appropriate retention period.
40. Issuers of ARTs and CASPs, should perform the assessment or a re-assessment of the suitability of the management body, and its members:
 - a. when applying for authorisation before commencing the activities that require authorisation;
 - b. when material changes to the composition of the management body occur, including:
 - (i) when appointing new members of the management body, including in the context of a direct or indirect acquisition or increase of a qualifying holding in the issuer of ARTs or the CASP. This assessment should be limited to newly appointed members and the collective suitability of the management body;

- (ii) when re-appointing members of the management body, if the requirements of the position have changed or if the member is appointed to a different position within the management body. This assessment should be limited to the members whose position has changed and to the analysis of the relevant aspects, taking into account any additional requirements for the position and the collective suitability of the management body;
 - c. where material changes to the business model and activities, underlying legal provisions or technologies used occurred;
 - d. on an ongoing basis, in the light of any relevant new fact or situation. In particular, a re-assessment should be performed in the following cases:
 - (i) when there are concerns regarding the individual or collective suitability of the members of the management body;
 - (ii) in the event of a possible material impact on the reputation of a member of the management body, or the issuer of ARTs or CASPs, including cases where members do not comply with the firm's conflict of interest policy;
 - e. where there are reasonable grounds to suspect that money laundering or terrorist financing has been or is being committed or attempted in connection with that issuer of ARTs or CASP, or where it has been found to be in breach of its AML/CFT obligations in the home or host Member State or in a third country in any event that can otherwise materially affect the suitability of the member of the management body.
- 41. Issuers of ARTs and CASPs should re-assess the sufficient time commitment of a member of the management body if that member takes on an additional directorship or starts to perform new relevant activities.
- 42. Where re-assessments of the collective suitability are performed, issuers of ARTs and CASPs should focus their assessment on the relevant changes in their business model and activities, strategies, technical infrastructures, and risk profile and in the distribution of duties within the management body and their effect on the required collective knowledge, skills and experience of the management body.
- 43. When assessing a member's appropriate knowledge, skills and experience, issuer of ARTs or CASPs should, within the same time period, also assess the collective suitability of the management body. In particular, it should be assessed what knowledge, skills and experience the individual brings to the collective or, in the case of a member that has left the management body, the knowledge and experience that might, following the change of composition of the management body, be missing.
- 44. The knowledge, skills and experience assessments of individual members of the management body and of the collective management body, should be carried out before the individual members are appointed. Where applicable, the management body in its supervisory function should be responsible for performing the final assessment.
- 45. By way of derogation from paragraph 44, the suitability assessments may, without prejudice to national law, be performed as soon as practicable but in any case, within one month of the appointment of the member of the management body, in any of the following cases for which the issuer of ARTs or the CASP has duly provided a justification:

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- a. Shareholders, owners or members of the issuer of ARTs or of the CASP nominate and appoint members of the management body at the shareholder's or equivalent meeting that have not been proposed by the issuer of ARTs or by the CASP or by their management body;
 - b. a full individual suitability assessment prior to the appointment of an individual member or the collective suitability assessment following a change of the composition of the management body would disrupt the sound functioning of the management body, including as a result of the following situations:
 - (i) where the need to replace members arises suddenly or unexpectedly, e.g. death or disability of a member; and
 - (ii) where a member needed to be removed as the member was not any longer suitable.
46. The assessment of appropriate knowledge, skills and experience should take into account all matters relevant to and available for the assessments. Issuers of ARTs or CASPs should take into account the knowledge, skills and experience of the individual member of the management body when assessing the adequate collective knowledge, skills and experience of the management body and vice-versa.
47. The issuer of ARTs or the CASP should document the results of their assessment, and in particular any weaknesses identified between the necessary and the actual collective knowledge and experience of members of the management body, and measures to be taken to overcome these shortcomings, including induction or training to be provided.
48. To ensure the appropriate ongoing supervision, the issuer of ARTs and the CASP should inform the competent authority of the proposed appointment of members or without undue delay after the appointment of members.
49. Where the assessment is also carried out by competent authorities for supervisory purposes, the responsibility to assess and ensure the suitability of the management body continues to remain with the issuer of ARTs or the CASP.

C.3.1 Assessment of the individual suitability of members of the management body by CASPs and issuers of ARTs

50. As part of the assessment of the management body suitability, the issuer of ARTs or the CASP should assess the knowledge, skills and experience of individual members. For that purpose, the issuer of ART or the CASP should:
- a. gather information through various channels and instruments (e.g. diplomas and certificates, recommendation letters, curricula vitae, interviews, questionnaires);
 - b. require the assessed individual to provide accurate information and to provide proof of that information, where necessary;
 - c. validate, to the extent possible, the correctness of the information provided by the assessed individual;
 - d. where applicable, evaluate within the management body in its supervisory function the assessment results; and
 - e. where necessary, identify necessary corrective measures.

51. The issuer of ARTs or the CASP should document a description of the position of the member for which an assessment was performed, including the role of that position within the issuer of ARTs or CASP and should specify the results of the assessment in relation to knowledge, skills and experience and the results of the assessment of good reputation and time commitment made in line with these Guidelines. The issuer of ARTs or the CASP should document a description of the position of the member for which an assessment was performed, including the role of that position within the issuer of ARTs or CASP and should specify the results of the assessment in relation to knowledge, skills and experience and the results of the assessment of good reputation and time commitment made in line with these Guidelines.

C.3.2 Assessment of the collective suitability of members of the management body by CASPs and issuers of ARTs

52. Where applicable, in assessing the collective appropriate knowledge, skill and experience, the issuer of ARTs or the CASP should assess the composition of the management body in its management and, where applicable, its supervisory functions separately.
53. The assessment of the appropriate collective knowledge, skills and experience should provide a comparison between the appropriate knowledge, skills and experience of the management body required for the performance of all business activities, including their organisational aspects and underlying processes, and the management body's actual collective knowledge and experience.
54. When assessing the collective appropriate knowledge, skills and experience of the management body, the issuer of ARTs or the CASP should first assess all individual members, map the results to the business activities and establish that for all such activities the management body has collectively adequate knowledge, skills and experience to ensure the effective functioning of the management body.
55. The composition of the management body should ensure that the collective decision-making processes involve appropriate discussion, challenge and oversight. For that purpose, there should be a sufficient number of members with knowledge in each area to allow a discussion of decisions to be made.
56. The issuer of ARTs or the CASP should perform an assessment of the collective suitability of the management body to perform their duties under MiCA and document the results using either:
- a. The suitability matrix template included in Annex I as a basis and adapting it taking into account the criteria described in Section C.1; or
 - b. their own appropriate methodology in line with the criteria set out in these Guidelines.

C.4. Issuers of ARTs' or CASPs' corrective measures

57. If an issuer of ARTs' or a CASP's assessment or re-assessment concludes that the management body or a member of the management body does not possess the adequate knowledge, skill and experience, or cannot commit sufficient time, the issuer of ARTs or the CASP should take appropriate corrective measures in a timely manner.
58. Where a member of the management body is not of sufficient good reputation the member should not be appointed, be replaced or not be allowed to execute the position.
59. Appropriate corrective measures may include but are not limited to: adjusting responsibilities between members; replacing certain members; recruiting additional members; training single members; or training

for the management body collectively to ensure that it has appropriate collective knowledge, skills and experience.

60. If an issuer of ARTs or a CASP's assessment or re-assessment identifies easily remediable shortcomings of the adequate knowledge, skills and experience or ability to commit sufficient time of the management body or a member of the management body, the issuer of ARTs or the CASP should take appropriate corrective measures to overcome those shortcomings in a timely manner.
61. In any case, competent authorities should be informed without delay of any material shortcomings identified concerning any of the members of the management organ and the management body's collective composition. The information should include the measures taken or envisaged to remedy those shortcomings and the timeline for their implementation.

C.5. Suitability assessment by competent authorities

62. Competent authorities should specify the supervisory procedures applicable to the suitability assessment of members of the management body of issuers of ARTs and CASPs. When specifying the supervisory procedures, competent authorities should consider that a suitability assessment performed after the member has taken up his or her position could lead to the need to remove a non-suitable member from the management body or to a situation where the management body collectively has ceased to be suitable.
63. Competent authorities should ensure that a description of those assessment procedures is publicly available. The supervisory procedures should ensure that newly appointed members of the management body and the management body as a collective body are assessed by the competent authorities. The supervisory procedures should also ensure that re-appointed members of the management body are re-assessed by the competent authority in accordance with these Guidelines, where a re-assessment is necessary due to a change in the information required or the position held by the re-appointed member.
64. Competent authorities should ensure that their supervisory procedures allow them to address cases of non-compliance with the relevant regulatory requirements in a timely manner.
65. Competent authorities should require issuers of ARTs and CASPs to notify them without delay of any vacant positions within the management body. Competent authorities that assess the suitability of members of the management body before the appointment should require the issuer of ARTs or the CASP to notify them without undue delay after the firm decided to propose the member for appointment. Competent authorities that assess the suitability of members of the management body after the appointment should require the issuer of ARTs or the CASP to notify the appointment at the latest 2 weeks after the appointment. This notification should include the information referred to in paragraph 70.
66. In the duly justified cases referred to in paragraph 45, issuers of ARTs and CASP should be required to provide the complete documentation required under paragraph 70 to the competent authority within one month of the member being appointed.
67. Competent authorities should set out a maximum period for their assessment of suitability which should not exceed 4 months from the date when the notifications of the intended or actual appointment by the issuer of ARTs or the CASPs.
68. Where a competent authority establishes that information in addition to what is required under paragraph 70 is needed to complete the assessment, the period set under paragraph 67 may be suspended from the time when the competent authority requests additional information until its receipt.

69. Competent authorities should perform their assessment on the basis of the information provided by the issuer of ARTs and CASPs and assessed members and should assess them against the notions defined in these Guidelines, as applicable.
70. Competent authorities should require issuers of ARTs and CASPs to submit the information and documentation necessary for the assessment of the suitability of the member of the management body, including the information and documentation required for the suitability assessment at authorisation as specified in the Commission Delegated Regulation mandated under Articles 18(6) of MiCA with regard to the application of paragraph (2) (i) of this Article in the case of an issuer of ARTs and mandated under Article 62(5) of that Regulation with regard to the application of paragraph (2)(g) of this Article in the case of a CASP, containing proof of the members sufficient good repute, and the members and the management body's appropriate individual and collective knowledge, skills and experience and ability to commit sufficient time.
71. Where appropriate on a risk-based approach and for issuers of significant ARTs, competent authorities should use also interviews for the purpose of suitability assessments.
72. The assessment of the individual and collective suitability of the members of the management body should be performed on an ongoing basis by competent authority, as part of their ongoing supervisory activities.
73. Competent authorities may attend or conduct meetings with the issuer of ARTs or CASP, including with some or all members of its management body, or participate as an observer in meetings of the management body to assess the effective functioning. The frequency of such meetings should be set using a risk-based approach.
74. Competent authorities should ensure that necessary re-assessments under sections C.3, C.3.1 and C.3.2 are conducted by issuers of ARTs and CASPs. If a re-assessment of suitability by a competent authority is prompted by a re-assessment by an issuer of ARTs or CAPS, that competent authority should take into account the circumstances that prompted the reassessment and its impact on the individual and collective suitability of the Management body.

C.6. Decision of the competent authority

75. Competent authorities should take a decision based on the assessment of individual and collective suitability of members of the management body within the maximum period referred to in paragraph 67 or, if the period has been suspended as referred to in paragraph 68, within the maximum period of 6 months.
76. Where the outcome of the assessment of suitability by the competent authority concludes that it is not sufficiently proven that the assessed person is suitable, including in situations where the provided information is not sufficient to complete the assessment, the competent authority should object to or not approve the appointment of that person, unless the identified shortcomings are remediable and can be overcome by other measures taken by the issuer of ARTs or by the CASP.
77. Where an issuer of ARTs or a CASP fails to provide sufficient information regarding the suitability of an assessed individual to the competent authority, the latter should inform the firm that the member cannot be a member of the management body because it has not been sufficiently proven that the person is suitable or that it decided negatively.
78. Where shortcomings regarding the individual or collective knowledge, skills or experience of members of the management body are identified, the competent authority, considering the measures already taken by the issuer of ARTs or the CASP, should take appropriate measures to address the identified shortcomings

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and set a timeline for the implementation of these measures. Such measures should include as appropriate one or more of the following measures:

- a. requiring the issuer of ARTs or the CASP to organise specific training for the members of the management body individually or collectively;
- b. requiring the issuer of ARTs or the CASP to change the division of tasks amongst the members of the management body;
- c. requiring the issuer of ARTs or the CASP to refuse the proposed member or to replace certain members;
- d. requiring the issuer of ARTs or the CASP to change the composition of the management body to ensure the individual and collective suitability of the management body;
- e. removing the member from the management body of the issuer of ARTs or of the CASP;
- f. where appropriate, imposing administrative penalties or other administrative measures (e.g. setting out specific obligations, recommendations or conditions), including ultimately withdrawing the authorisation.

APPENDIX 51: JOINT GUIDELINES ON THE ASSESSMENT OF THE SUITABILITY OF THE SHAREHOLDERS OR MEMBERS, WHETHER DIRECT OR INDIRECT, WITH QUALIFYING HOLDINGS IN ISSUERS OF ARTS OR OF CASPS

A. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Articles 16 of Regulation (EU) No 1093/2010⁴¹⁰ and to Article 16 of Regulation (EU) No 1095/2010⁴¹¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010 and of Regulation (EU) 1095/2010, competent authorities, financial market participants and financial institutions shall make every effort to comply with these guidelines. These guidelines set out appropriate supervisory practices within the European System of Financial Supervision and of how Union law should be applied.
2. Competent authorities as defined in Article 3(1) point (35)(a) of MiCA to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at financial market participants and financial institutions.

Reporting requirements

3. Within two months of the date of publication of these guidelines on EBA's and ESMA's websites in all EU official languages, according to Article 16(3) of Regulation (EU) No 1093/2010 and of Regulation (EU) 1095/2010, competent authorities must notify the EBA or ESMA as to whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with these guidelines. In case of non-compliance, competent authorities must also notify ESMA or EBA within two months of the date of publication of these guidelines on ESMA's and EBA websites in all EU official languages of their reasons for not complying with these guidelines. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA or to ESMA.
4. Notifications will be published on the EBA website, in line with Article 16(3) of Regulation (EU) No 1093/2010 and on the ESMA website, in line with Article 16(3) of Regulation (EU) No 1095/2010.

Subject matter, scope and definitions

Subject matter

⁴¹⁰Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

⁴¹¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Securities and Market Authority (European Securities and Market Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, (OJ L 331, 15.12.2010, p. 84).

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5. In accordance with Article 16 of Regulation (EU) No 1093/2010 and of Regulation (EU) No 1095/2010, these Joint Guidelines lay down the methodology that competent authorities should use for the assessment of the circumstances giving rise to qualifying holdings (Section F.1 of the Guidelines).
6. These Joint Guidelines lay down the methodology that competent authorities should use for the assessment of the suitability of the shareholder or member that has qualifying holdings, whether direct or indirect (Section F.2 of the Guidelines):
 - a. in an applicant issuer seeking for an authorisation under Article 18 of MiCA, in accordance with the mandate set out by Article 21(3) of that Regulation;
 - b. in an applicant CASP seeking for authorisation under Article 62 of MiCA, in accordance with the mandate set out by Article 63(11) of that Regulation.
7. In accordance with Article 16 of Regulation (EU) No 1093/2010 and of Regulation (EU) No 1095/2010, these Joint Guidelines lay down the methodology that competent authorities should use for the assessment of the suitability of a proposed acquirer of direct or indirect qualifying holdings (Section F.3 of the Guidelines):
 - a. in an issuer of ARTs authorised under Article 21 of MiCA, in accordance with the criteria set out by Article 42(1), points (a) to (e) of that Regulation;
 - b. in a CASP authorised under Article 63 of that Regulation, in accordance with the criteria set out by Article 84(1), points (a) to (e) of that Regulation.

Scope of application

8. In accordance with Articles 18(2), point (j) or 62(2)(h) of MiCA, in case of application for authorisation as issuer of ARTs or as a CASP, the assessment of the proposed acquirers concerns the sufficiently good repute of the shareholders or members, whether direct or indirect, with qualifying holdings.
9. In accordance with Articles 42(1) and 84(1) of MiCA, in case of issuer of ART or CASP authorised under Article 21 or 63 of that Regulation, the assessment of the proposed acquirers concerns the suitability, based on the five assessment criteria set out therein, of the shareholders or members, whether direct or indirect, with qualifying holdings.
10. These guidelines do not apply to issuers of ARTs or CASPs that are authorised as credit institutions under Directive 2013/36/EU. Moreover, CASPs that are financial entities listed in Article 60, providing crypto-asset services as part of their authorisation in accordance with paragraphs (2) to (6) of Article 60 of MiCA are not subject to Articles 63 and 84 but remain subject to the provisions of Article 68(2).

Addressees

11. These guidelines are addressed to competent authorities as defined in Article 3(1), point (35)(a) of MiCA.

Definitions

12. Unless otherwise specified, terms used and defined in MiCA have the same meaning in these Joint Guidelines. In addition, for the purposes of these guidelines, the following definitions apply including for purposes of cross-reference to the Joint ESAs Guidelines on QH:

Proposed acquirer	Means natural or legal person who, whether individually or acting in concert with another person

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	or persons, intends to acquire or to increase, directly or indirectly, a qualifying holding in a target undertaking which is a an ART issuer authorised under Article 21 of MiCA or a CASP authorised under Article 63 of that Regulation, or a shareholder or member, who, whether directly or indirectly, individually or acting in concert with another person or persons, holds qualifying holding in an applicant issuer of ART seeking for an authorisation in accordance with Article 18 of that Regulation or in an applicant CASP seeking for an authorisation in accordance with Article 62 of that Regulation.
Sectoral Directives or Regulations	Means MiCA
Shareholder or member	means a natural or legal person who owns shares in the target undertaking or, depending on the legal form of an institution, other owners or members of the target undertaking
Target supervisor	Means the competent authority, as defined in Article 3(1) point (35)(a) of MiCA, which is responsible for the supervision of the target undertaking
Target undertaking	Means: - an applicant issuer applying for an authorisation under article 18 of MiCA or - an issuer of ARTs authorised in accordance with Article 21 of that Regulation; or - an applicant CASP applying for an authorisation under article 62 of MiCA; or - a CASP, authorised in accordance with Article 63 of MiCA.
Joint ESAs Guidelines on QH	Means the Joint EIOPA, EBA and ESMA Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector of 16 December 2016 (JC/GL/2016/01).

B. Implementation

Date of application

13. These guidelines apply from 04/02/2025.

C. Joint Guidelines

C1. Acting in concert, significant influence, indirect shareholders, decision to acquire

14. Competent authorities should determine whether the circumstances giving rise to a proposed acquisition of qualifying holding in a target undertaking are met, preliminary to the assessment of the suitability of the proposed acquirer.
15. For these purposes competent authorities should apply the assessment methodology set out in the Joint ESAs Guidelines on QH, namely in Title II, Chapter 1, Section 4 on Acting in concert, Section 5 on Significant influence, Section 6 on Indirect acquisitions of qualifying holdings, Section 7 on Decision to Acquire.

C2. Assessment of suitability of shareholders or members, whether direct or indirect, with qualifying holdings at authorisation

16. Pursuant to Article 21(2), point (c) or Article 63(10), point (c) of MiCA, competent authorities shall assess whether the proposed acquirer with qualifying holdings in an undertaking applying for an authorisation under article 18 or for an authorisation under Article 62 of that Regulation are of sufficiently good repute as referred to in Article 34(4) and 68(2) of that Regulation (EU). Such assessment should be based on the criteria set out in Article 42(1) or in Article 84(1), point (a), on the reputation of the proposed acquirer and on point (e), on the absence of reasonable grounds to suspect that ML/TF are being committed or attempted, of MiCA.
17. For the assessment of the reputation of the proposed acquirer, competent authorities should refer for their assessment on the information set out to in the Commission Delegated JOINT GL ON THE ASSESSMENT OF SUITABILITY 26 Regulations adopted pursuant to Articles 18(6) of MiCA in the case of an issuer of ARTs and Article 62(5) of that Regulation in the case of CASPs and should apply the methodology set out in Title II, Chapter 3, Section 10 of the Joint ESAs Guidelines on QH, on Reputation of the proposed acquirer – first assessment criterion, as applicable.
18. For the assessment of the absence of reasonable grounds to suspect that ML/TF are being committed or attempted, competent authorities should apply the methodology set out in Title II, Chapter 3, Section 14 of the Joint ESAs Guidelines on QH, on Suspicion of money laundering or terrorist financing by the proposed acquirer – fifth assessment criterion. Furthermore, competent authorities should apply paragraph 28 of these Joint Guidelines whenever the funds for the acquisition of the qualifying holdings consist in crypto-assets or whenever they derive from the exchange of crypto-assets into fiat currency.
19. For the purposes of the assessment of the aspects of sufficiently good repute relating to professional competences of the proposed acquirer, competent authorities should apply proportionality in accordance with paragraph 8.3 of section 8 of the ESAs Guidelines on QH, on Proportionality.

C3. Assessment of the suitability of a proposed acquirer of a qualifying holding in accordance with Articles 42(1) or 84(1) of MiCA

20. In order to assess whether a natural or legal person have made the decision to acquire, competent authorities should apply Section 7 of the ESAs Joint GL on QH on Decision to acquire.
21. Competent authorities have to assess the suitability of proposed acquirers of direct or indirect qualifying holdings in an issuer of ARTs authorised in accordance with Article 21 of MiCA or in a CASP authorised in

accordance with Article 63 of that Regulation, in accordance with the criteria set out in points (a) to (e) of Article 42(1) or of Article 84(1) of that Regulation respectively.

22. For the assessment of the criterion set out in Article 42(1), point (a) or in Article 84 (1), point (a) of MiCA on the reputation of the proposed acquirer, competent authorities should refer for their assessment to the information set out in the Commission Delegated Regulations adopted pursuant to Articles 42(4) of MiCA in the case of an issuer of ARTs and to Article 84(4) of that Regulation in the case of CASPs and should apply the methodology set out in Title II, Chapter 3, Section 10 of the Joint ESAs Guidelines on QH, on Reputation of the proposed acquirer – first assessment criterion, as applicable.
23. For the assessment of the criterion set out in Article 42(1), point (b) or in Article 84(1), point (b) of MiCA, relating to the reputation, knowledge, skills and experience of any person who will direct the business of the target undertaking, competent authorities should apply the assessment methodology laid down in the EBA and ESMA Joint Guidelines on the suitability assessment of the members of the management body of issuers of ARTs or of CASPs.
24. For the assessment of the criterion set out in Article 42(1), point (c) or in Article 84(1), point (c) of MiCA, competent authorities should apply the methodology set out in Title II, Chapter 3, Section 12 of the Joint ESAs Guidelines on QH, on Financial soundness of the proposed acquirer – third assessment criterion.
25. For the assessment of the criterion set out in Article 42(1), point (d), relating to the continuous compliance with the requirements set out in Title III of MiCA, or in Article 84(1), point (d) relating to the continuous compliance with the requirements set out in Title V of that Regulation, when it concerns prudential requirement, competent authorities should apply the methodology set out in Title II, Chapter 3, section 13 of the Joint ESAs Guidelines on QH, on compliance with prudential requirements of the target undertakings with that requirement.
26. With specific regard to issuers of ARTs, the continuous compliance with the prudential requirements on liquidity includes the requirements relating to the composition, management, investment, segregation and custody of the reserve of assets, with the view to meeting any potential request of redemption by the holders of the token.
27. For the assessment of the criterion set out in Article 42(1), point (e), or in Article 84(1), point (e) of MiCA respectively, competent authorities should apply the methodology set out in Title II, Chapter 3, Section 14 of the Joint ESAs Guidelines on QH, on Suspicion of money laundering or terrorist financing by the proposed acquirer – fifth assessment criterion.
28. Whenever the funds for the acquisition of the qualifying holdings consist in crypto-assets or whenever they derive from the exchange of crypto-assets into fiat currency, competent authorities, in addition to the application of the assessment methodology laid down in Title II, Chapter 3, Section 14 of the Joint ESAs Guidelines on QH, on the suspicion of money laundering or terrorist financing, should also identify:
 - a. the distributed ledger address used by the proposed acquirer, where a transfer of crypto-assets is registered on a network using distributed ledger technology or similar, and the crypto-asset account number used by the proposed acquirer, where such an account exists and is used to process the transaction;
 - b. the crypto-asset account number used by the proposed acquirer, where a transfer of crypto-assets is not registered on a network using distributed ledger technology or similar;

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- c. where a transfer of crypto-assets is not registered on a network using distributed ledger technology or similar technology and not made from or to a crypto-asset account, a unique transaction identifier; and
 - d. the crypto-asset service provider(s) of the parties to the transaction, as applicable.
- 29. Target supervisors should apply the principle of proportionality in their assessment in accordance with Section 8 on Proportionality of the Joint ESAs Guidelines on QH in case of proposed acquirers in an issuer of ART authorised in accordance with Article 21 of MiCA, or in a CASP authorised in accordance with Article 63 of that Regulation.
- 30. In case the proposed acquirer intends to acquire a qualifying holding in a target undertaking which is an issuer of ARTs authorised in accordance with Article 21 of MiCA or in a CASP authorised in accordance with Article 63 of that Regulation, target supervisors should apply Title II, Chapter 2, Section 9, paragraphs 9.1 to 9.3 of the Joint ESAs Guidelines on QH with regard to the procedure applicable to the notification submitted by the proposed acquirer.

ANNEX I - Template for a matrix to assess the collective competence of members of the management body

Instructions

Introduction and instructions The responsibility of the management body in its supervisory function as well as in its management function is collective. A management body fulfils its role effectively when it is able to make informed decisions and provide effective oversight. Thus, an effective management body needs to include individuals with a mix of knowledge, skills and experience that are up to date and cover the major business areas of the institution and their risks. It is the responsibility of the institution to ensure that the members of the management body are on an on-going basis collectively competent.
Possible self-assessment tool for institution The suitability matrix is a possible tool for an institution to self-assess periodically or annually the collective suitability of the members of the management body. If the matrix is not used, institutions can document and self-assess their collective suitability in their own way, proportionate to their size, nature and complexity. By assessing the knowledge, skills and experience of the individual members of the management body against the major business areas of the institution and their risks, strengths and weaknesses in the management body can be identified and hence the collective knowledge, skills and experience can be assessed. The outcomes provide input for needs for training. They should be used to determine the required profile of new members and to situate during the supervisory fit and proper assessment process how their proposed appointment fits into the collective suitability. This matrix is designed to provide a collective assessment of the knowledge, skills and experience of the management body as a whole. It is expected that in a collegiate body there are members with different characteristics, including different types and levels of skills and knowledge, and different professional experiences. To also take into account differences due to the number of years of experience enjoyed by the different members, a separate experience overview can be filled in.
Internal process for filling in the matrix The management body as a whole is responsible for performing the self-assessment of the collective suitability, and in case this matrix is used, for setting up an internal process to fill in the matrix in an efficient, transparent, fair and critical way. There are different ways to approach this process but the main point is that it should lead in the end to a collegial discussion, not only about the scores and names crossed behind the different requirements, but most of all about the underlying motivation and the conclusions about the collective suitability. In principle, the practicalities of the internal process can be freely chosen. For CRD IV significant institutions it is however mandatory that the nomination committee is involved (Article 88 (2) (c) CRD IV). The parties involved in the process (such as a specific role for the chairperson, the nomination committee, other internal committees, the human resources department, the actual business lines, possibly external advice) should be determined upfront in the process. It might be deemed desirable that this matrix is filled in following completion of a questionnaire by each individual member that gives a weighting to the experience through the use of some kind of rating system. Such individual questionnaire is not provided here as the focus of the matrix is clearly collective). When filling in the matrix, the group context should and can be taken into account where relevant (oversight role of the parent undertaking, intragroup outsourcing arrangements, need for independent checks at subsidiary level ...). The group context will also be particularly important in the description of the business model.

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Possible input for the prudential supervision As explained, using the suitability matrix is not mandatory based on the EBA/ESMA Fit and Proper Guidelines (EBA/GL/2016/xx or ESMA/GL/2016/xx) only and consequently does not amount to a standard supervisory reporting. Nevertheless the outcomes of the matrix – just like the outcomes of any other tool that would be used by the institution for its self-assessment – could be requested by the competent authority as input for the supervision of the collective suitability of the management body. This supervisory assessment should be based on the mentioned Guidelines.
As part of the national implementation of the mentioned Guidelines, and with the aim to reach the objective behind article 91 (7) CRD IV, competent authorities may require that credit institutions are able to present the types of information included in this matrix, in a different format specified by them.
Specific and common requirements The template for a matrix provided below is based on a double perspective: on the one hand requirements that follow from the specific characteristics of the business model of the institution, on the other hand common requirements that are usually relevant for all types of institutions (even though the degree of relevance can still vary). Module A covers the alignment with the business model; model B covers the common requirements and has three subsets of questions: (1) governance, (2) risk management, compliance and internal audit and (3) management and decision-making. For module A, the actual business lines can provide input for the appropriate adaptation of the matrix. Even in module B, open lines appear e.g. to cover specific needs of the institution apart from business model considerations or to cover for national regulations that require additional knowledge, skills or expertise.
Tables and narratives in the matrix The matrix will result in tables with collective scores that serve as a quantitative indication for the collective suitability of the management body. Scores (high, medium-high, medium-low, low, absent) are defined using the term "experience" in a broad sense: it should be understood to cover both practical and theoretical aspects and include skills and knowledge. Both theoretical experiences attained through education and training and practical experience gained in previous occupations must be considered. Behind the scores, the names of the members who bring in most value-added for a particular requirement are crossed in the table. Taking into account that the institution must be able to adapt with minimal disruption if a position is vacated unexpectedly, it is expected that more than one name is crossed. The total number of names crossed will of course also vary depending on the size of the management body. "Name" can refer to current members, but can also refer to possible future members (although the collective score should only relate to the current composition). Besides the quantitative scores and the crossing of names, the underlying motivations are equally important. There may e.g. be a specific reason to have certain persons on the management body, because of knowledge needed for specific activities. The explanation of the scores and names crossed in the matrix can be added separately in the tables. At the end of the matrix, narrative questions appear that are meant to facilitate clear outcomes.
Different structures Institutions usually have, depending on the national regulation, one-tier or two-tier structures. In both structures the members who fulfil the management function and the members who fulfil the supervisory function need to be collectively suitable. Each area of knowledge or expertise needs to be covered collectively by the member(s) of the management body in its management function and – although the type and level of experience may be different – collectively by the member(s) of the management body in its supervisory function. The institution should determine how the overview of the collective suitability is best achieved. It is advisable to fill in a separate matrix for the members of the management body in its management function

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(as far as it is a collegial body) and the members of the management body in its supervisory function respectively. As part of the supervisory function, attention should also be paid to the collective knowledge and expertise of the specialised committees (risk/remuneration/audit/nomination) within the management body.

Business model requirements

Alignment of the collective suitability with the business model		
This section is meant to provide narrative descriptions of:		
the current business model of the institution:		
the main risks associated with the current business model, as included in the risk appetite framework:		
the strategy (forward-looking perspective):		
the main risks associated with this strategy:		
This section is meant to map the required collective experience of the management body in line with the main characteristics of the current business model of the institution, its strategy and the main associated risks that need to be managed. This mapping is done on the basis of the institution’s own break down by major geographies, business lines, subsidiaries/branches and product lines, and (sub)types of risks.		
Mirror the generic names in column A by adding the institution's own mapping in column B - add or delete rows as deemed necessary	Cross the names with an "X" for the individuals who are of most value-added for the particular required experience - add columns for all the members in either the management function or the supervisory function	Fill in a collective score for the management body in its management function/ supervisory function as a whole in its current composition:

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		Name member	Name member	Name member	Name member	Name member	Name member	Name member	Name member	<i>A = Absent</i> <i>L = Low</i> <i>ML = Medium-Low</i> <i>MH = Medium-High</i> <i>H = High</i>
Group business model / strategy										
Major business line 1										
Major business line 2										
Major business line 3										
Major business line 4										
Major geography 1										
Major geography 2										
Major geography 3										
Major geography 4										
Major branch/subsidiary 1										
Major branch/subsidiary 2										
Major branch/subsidiary 3										
Major branch/subsidiary 4										

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Major product line 1										
Major product line 2										
Major product line 3										
Major product line 4										
Group-wide risks										
Credit risk subtype 1										
Credit risk subtype 2										
Credit risk subtype 3										
Credit risk subtype 4										
Market risk subtype 1										
Market risk subtype 2										
Interest rate risk subtype 1										
Interest rate risk subtype 2										
Operational risk subtype 1										
Operational risk subtype 2										
Concentration risk subtype 1										
Concentration risk subtype 2										

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IT risk subtype 1										
IT risk subtype 2										
Legal / reputational risk subtype 1										
Legal / reputational risk subtype 2										
Other risk subtype 1										
Other risk subtype 2										

Governance

Common requirements									
A. Governance									
This section is meant to map how the organisational structure of the institution is set up and how responsibilities are allocated and monitored.									
	Cross the names with an "X" for the individuals who are of most value-added for the particular required experience - add columns for all the members in either the management function or the supervisory function								Fill in a collective score for the management body in its management function/ supervisory function as a whole in its current composition:
	Name member	Name member	Name member	Name member	Name member	Name member	Name member	Name member	A = Absent L = Low ML = Medium-Low MH = Medium-High H = High

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Assessing the setup and functioning of the administrative organisation									
Assessing the setup and functioning of the internal control system									
Assessing the setup and functioning of group-wide governance arrangements (e.g. relationships between parent and subsidiaries and/or branches)									
Assessing the setup and functioning of Human Resources									
Suitability assessment of members of the management body or staff functioning below the level of the management body									
Policies and procedures for the induction, training and professional development of the members of the management body or institution-wide									
Remuneration policy and practices (either to members of the management body in its management function or institution-wide) and using incentives to influence behaviours									

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Succession planning									
Policy on outsourcing and supervision of outsourced activities									
<i>Other relevant governance topics can be included below (e.g. if the institution is going through a major restructuring exercise which requires specific organisational experience, ...):</i>									
<i>To be completed, if and insofar as present</i>									
*									
*									

Risk mngt, compliance, audit

Common requirements		
B. Risk management, compliance and audit		
<i>This section is meant to map the experience of the members of the management body for a variety of topics from the risk management framework (including first-line-defences and the independent risk management function as a second-line-defence). Furthermore, this section maps the experience of the members of the management body with regard to compliance (a second-line-defence) and internal audit (the third-line-defence).</i>		
	<i>Cross the names with an "X" for the individuals who are of most value-added for the particular required experience - add columns for all the members in either the management function or the supervisory function</i>	<i>Fill in a collective score for the management body in its management function/ supervisory function as a whole in its current composition:</i>

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	Name member	Name member	Name member	Name member	Name member	Name member	Name member	Name member	<i>A = Absent</i> <i>L = Low</i> <i>ML = Medium-Low</i> <i>MH = Medium-High</i> <i>H = High</i>
Setting and implementing the institution's risk strategy, risk culture and risk appetite									
Capital, funding and liquidity, treasury management									
Recovery and resolution									
Stress-testing									
Internal models									
Setting up an independent risk management function and/or assessing its setup, functioning and effectiveness									
Policy on risk management and corresponding procedures and measures									
Laws and regulations concerning risk management									
Accounting aspects of products and services									
Financial information and regulatory reporting									
Setting up the compliance function and/or assessing its setup, functioning and effectiveness									

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Policy on compliance and corresponding procedures and measures									
Whistleblowing mechanisms									
Setting up the internal audit function and/or assessing its setup, functioning and effectiveness									
Setting up or overseeing the (annual) audit plan									
<i>Other topics of risk management, compliance or internal audit can be included below (e.g. when the institution is going through major court cases or specific risk management issues not covered in the business model mapping) can be included below:</i>									
<i>To be completed, if and insofar as present</i>									
*									
*									

Management and decision-making

Common requirements		
C. Management, strategy and decision-making		
<i>This section is meant to map the managerial knowledge, expertise and skills of the members of the management body. Furthermore, this section assesses the collective decision making skills of the members of the management body.</i>		
	<i>Cross the names with an "X" for the individuals who are of most value-added for the particular required experience - add columns for all the members in either the management function or the supervisory function</i>	<i>Fill in a collective score for the management body in its management function/supervisory function as a whole in its current composition:</i>

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	Name member	Name member	Name member	Name member	Name member	Name member	Name member	Name member	<i>A = Absent</i> <i>L = Low</i> <i>ML = Medium-Low</i> <i>MH = Medium-High</i> <i>H = High</i>
Managing processes and tasks and providing direction and guidance to others									
Setting tone at the top: consistency in word and deed and acting in accordance with the own stated values and beliefs									
Development of the institution's culture									
Oversight, either over the members of the management body in its management function or the day-to-day management									
Social, ethical and professional standards									
Engaging external experts for the proper execution of own tasks									
Developing and implementing strategy and business models									
Discovering and exploiting opportunities with regard to business sustainability									
Matching of products with specific target groups of clients									

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Identifying the long-term interests of the company in assessing products, services and markets in which the company operates and to act accordingly									
Communication about strategy, policies and objectives within the institution or group in a clear and transparent way									
External communication and knowing when stakeholders (such as supervisory authorities, shareholders, clients and external auditors) have to be informed									
Organisation of internal decision-making process in general									
Chairing of an internal decision-making body, committees or (management) group									
Oversight of executives (either supervisory function over management function, or management function over executives below the management body)									
Ensuring meeting takes place with sufficient frequency									
Communication in multi-lingual context if needed									
Information-gathering (internally or externally) in order to take timely and well-informed decisions									
Reporting from specialised committees or (management) groups to the whole management and/or supervisory function									

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Ensuring that sufficient alternatives are being weighed in a decision-making process									
Fostering open and inclusive decision-making with room for constructive and robust challenge of proposals									
Weighing the interests of all stakeholders in a decision-making process									
Recognizing and raising the issue of conflicts of interests in the decision-making process									
Assessing sufficiently whether decisions have been taken in line with the company strategy									
Laying down and formalising decisions that have been agreed upon									
<i>Other relevant topics of management or decision-making (such as specificities due to the one tier or two tier structure of the institution) can be included below:</i>									
<i>To be completed, if and insofar as present</i>									
*									
*									

Experience overview

Experience overview
<i>This section is meant to collect an overview of past banking or financial professional experience present in the management body, in the own institution or elsewhere. It also provides a quick overview of other types of experience. The overview is meant to help the assessment of the collective suitability also in light of the need to have a diversity of experiences and the need to set up appropriate succession planning.</i>

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<i>Please fill in the appropriate (number of) year(s) of professional experience.</i>	Name member	Name member	Name member	Name member	Name member	Name member	Name member	Name member
<i>Year in which mandate needs to be renewed</i>								
Numbers of years serving in a non-executive position in the own institution/group								
Number of years serving in an executive position in the own institution/group								
Number of years of banking or financial experience in large institutions other than the own institution								
Number of years of banking or financial experience in medium-sized institutions other than the own institution								
Number of years of banking or financial experience in small institutions other than the own institution								
Number of years in management positions								
Number of years of experience other than management or financial sector (e.g. academic, legal practice ...)								

Conclusions

Overall picture of the collective suitability
<i>This section is meant to assess the collective suitability of the members of the management body, taking into account the mapping of the experience of all members in the context of the overall management body composition.</i>
What are the strengths of the management function or of the supervisory function?
What are the weaknesses of the management function or the supervisory function? How and under which timeline will these be managed or mitigated? How effective have been the measures already adopted to manage or mitigate weaknesses?

Considerations regarding the overall composition of the management body Explain here why the institution deems this composition of the management function and of the supervisory functions adequate and effective; e.g.: - How is the collaboration between members? - What roles do the various people have for the dynamics of group discussions and decisions? - What particular characteristics do members have that add to the collective suitability? - Is the board size appropriate?
Having in mind a long term perspective on the institution (major challenges ahead such as business model sustainability, mergers or take-overs, restructuring, new markets ...) but also succession planning, what will be the future needs for the collective suitability of the management body?

Annexes

Annexes
<i>This section is meant - for internal records purposes - to briefly explain the internal process behind filling in the matrix, give extra explanations for the scores where desired and insert an overview of documentation that is attached to this matrix.</i>
Internal process for filling in the matrix
Aspects that can be covered: - Parties involved - Timing (annual assessment, regular assessment, ad hoc assessment) - Information gathered
Extra explanations regarding scores for the different modules
Business model alignment

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Governance
Risk management, compliance and audit
Management, strategy and decision-making
Overview of attachments
<i>List with document names</i>

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

(ESA 2024 28 - 10 December 2024)

1. Compliance and reporting obligations Status of these guidelines

Status of these guidelines

1. These Guidelines are issued pursuant to Article 16 of Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010 (the ESA Regulations)⁴¹². In accordance with Article 16(3) of the ESA Regulations, competent authorities, financial market participants and financial institutions must make every effort to comply with the guidelines.
2. Competent authorities as defined in point (35)(a) of Article 3(1) of Regulation (EU) 2023/1114⁴¹³ (MiCAR) should comply with these guidelines by incorporating them into their practices as appropriate (e.g. by amending the legal framework or their supervisory processes), including where guidelines are directed primarily at financial market participants and financial institutions.

Reporting requirements

3. Within two months of the date of publication of these guidelines on the websites of the ESAs in all EU official languages, according to Article 16(3) of each of the Regulations to which reference is made in paragraph 1 of these Guidelines, competent authorities must notify the EBA, EIOPA or ESMA, as the case may be, as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance. In the absence of any notification by this deadline, competent authorities will be considered by the ESAs to be non-compliant. Notifications should be sent by submitting the form available on the websites of each of the ESAs with the reference 'EBA/GL/2024/16'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the respective ESAs.
4. Notifications will be published on the websites of each of the ESAs, in line with Article 16(3) of the ESA Regulations.
5. Financial market participants are not required to report whether they comply with these guidelines.

⁴¹² EBA – Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

EIOPA – Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

ESMA – Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 84).

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

2. Subject matter, scope and definitions

Subject matter

6. In accordance with Article 97(1) of Regulation (EU) 2023/1114, these joint Guidelines establish:
- a. the content and form of the explanation and legal opinion referred to in Article 8(4) and Article 17(1), point (b)(ii), and Article 18(2), point (e), respectively, of that Regulation;
 - b. a common approach for the regulatory classification of crypto-assets under that Regulation.

Scope of application and addressees

7. These Guidelines apply to competent authorities, as defined in Article 3(1), point (35)(a), of Regulation (EU) 2023/1114.
8. These Guidelines also apply⁴¹⁴ to:
- a. offerors, persons seeking admission to trading, or operators of trading platforms for a crypto-asset other than an asset-referenced token (ART) or an electronic money token (EMT), who are required to notify the crypto-asset white paper to the competent authority, accompanied by an explanation describing why the crypto-asset should not be considered excluded from the scope of that Regulation, or classified as an ART or EMT pursuant to Article 8(4) of that Regulation;
 - b. credit institutions intending to offer to the public or seek admission to trading of an ART who are required to provide to the competent authority a legal opinion on the qualification of the crypto-asset pursuant to Article 17(1), point (b)(ii), of Regulation (EU) 2023/1114;
 - c. legal persons or other undertakings that are not credit institutions intending to offer to the public or seek admission to trading of an ART who are required to provide to the competent authority a legal opinion on the qualification of the crypto-asset pursuant to Article 18(2), point (e), of Regulation (EU) 2023/1114.
9. These Guidelines also apply to persons intending to carry out, or carrying out, crypto-asset services when assessing whether activities within their existing or intended remit involve a cryptoasset within the scope of that Regulation.

Definitions

10. Unless otherwise specified, terms used and defined in Regulation (EU) 2023/1114 have the same meaning in these Guidelines.

3. Implementation Date of application

11. These Guidelines apply from 12.05.2025.

4. Templates and standardised test

Template for the purposes of Article 8(4) Regulation (EU) 2023/1114

⁴¹⁴ The application date for MiCAR is established by Article 149 MiCAR (entry into force and application) which should be read in accordance with Article 143 (transitional measures).

12. Offerors, persons seeking admission to trading, and operators of trading platforms for cryptoassets other than ARTs and EMTs (relevant persons) should use the template referred to in Annex A to provide the explanation referred to in Article 8(4) of Regulation (EU) 2023/1114.
13. All fields set out in the template should be completed with all information necessary to provide a clear, fair, not misleading and complete explanation of the classification of the crypto-asset. Reference should be made to the following informing the explanation of the classification of the crypto-asset:
 - a. the source of the definitions taken into account for each regulatory product referred to in the template, including applicable EU and national law;
 - b. all relevant:
 - i. case law of the Court of Justice of the European Union and national courts;
 - ii. regulatory measures, including rules and guidance, in the Member State concerned;
 - iii. interpretative guidance from the European Commission and Guidelines from the European Supervisory Authorities;
 - iv. interpretative guidance from competent authorities or any other source relevant to the interpretation of regulatory concepts.

Template for the purposes of Article 17(1), point (b)(ii), and Article 18(2), point (e), Regulation (EU) 2023/1114

14. Credit institutions, and legal persons and other undertakings intending to offer to the public or seek admission to trading of an ART should use the template referred to in Annex B for the purposes of the legal opinion on the qualification of the crypto-asset referred to in Article 17(1), point (b)(ii), and Article 18(2), point (e), of Regulation (EU) No 2023/1114.
15. All fields set out in the template should be completed with all information necessary to provide clear, fair, not misleading and complete explanation of the classification of the crypto-asset. Reference should be made to the following informing the explanation of the classification of the crypto-asset:
 - a. the source of the definitions taken into account for each regulatory product referred to in the template, including applicable EU and national law;
 - b. all relevant:
 - i. case law of the Court of Justice of the European Union and national courts;
 - ii. regulatory measures, including rules and guidance, in the Member State concerned;
 - iii. interpretative guidance from the European Commission and Guidelines from the European Supervisory Authorities;
 - iv. interpretative guidance from competent authorities or any other source relevant to the interpretation of regulatory concepts.
16. The template should be completed by an in-house or external legal adviser. The legal adviser should be able to issue the opinion in an objective manner, free from conflicts of interest that cannot be effectively managed. Evidence should be provided of the legal adviser's ability, as a matter of professional practice, to

issue a legal opinion. This may include, as applicable, a diploma, a practicing certificate, registration with the relevant professional body in the Member State concerned.

Standardised test for the classification of crypto-assets

17. Competent authorities and other persons to whom these Guidelines are addressed should apply a common approach to determine the classification of a crypto-asset on a case-by-case basis taking into account all the attributes of the token in question in accordance with the flow chart provided in Annex C.
18. Competent authorities and other persons to whom these Guidelines are addressed should determine if there is a digital representation of a value or right, these being the necessary attributes of a crypto-asset as defined in Article 3(1) point (5) of Regulation (EU) 2023/1114. The terms 'value' and 'right' should be interpreted broadly in accordance with recital (2) of that Regulation. Crypto-assets with no-intrinsic value, but having a value attributed to them by the seller / buyer or by market participants⁴¹⁵ should be treated as digital representations of value.
19. Competent authorities and other persons to whom these Guidelines are addressed should also assess if the digital representation of the value and/or right can be transferred and stored electronically using distributed ledger technology (DLT) or similar technologies. A token may be considered 'non-transferable' only where at least the following conditions are satisfied (i) the token is accepted only by the issuer or offeror, and (ii) there is no technical possibility for the token to be transferred by a holder to persons other than the issuer or offeror (recital (17) of Regulation (EU) 2023/1114). To assess if a technology is similar to DLT the functional attributes of such technology should be considered, including the basis on which the records (the ledger) are held, shared and how consensus is achieved (i.e. the functioning of any consensus mechanism).
20. If both elements (digital representation of a value and/or right, and transferred and stored electronically using DLT or similar technology) are satisfied competent authorities and other persons to whom these Guidelines are addressed should consider that the token is compatible with a crypto-asset for the purposes of Regulation (EU) 2023/1114.
21. In order to determine if the crypto-asset is within the scope of Regulation (EU) 2023/1114, competent authorities and other persons to whom these Guidelines are addressed should assess all of the exclusions identified in Article 2, points (2) to (4) of Regulation (EU) 2023/1114:
 - a. Article 2(2): is the issuer or offeror a person referred to in that paragraph? MiCAR does not apply to persons who provide crypto-asset services exclusively for their parent companies, for their own subsidiaries or for other subsidiaries of their parent companies; liquidators or administrators acting in the course of an insolvency procedure (except for the purposes of Article 47 of MiCAR); the ECB, central banks of the Member States when acting in their capacity as monetary authorities, or other public authorities of the Member States; the European Investment Bank and its subsidiaries; the European Financial Stability Facility and the European Stability Mechanism; public international organisations.
 - b. Article 2(3): is the crypto-asset unique and not fungible with other crypto-assets?⁴¹⁶ In assessing if the crypto-asset is unique and not fungible, competent authorities and other persons to whom these Guidelines apply should have regard to Article 2(3) and recital (11) of Regulation (EU) 2023/1114 as

⁴¹⁵ For example tokens such as Bitcoin and so-called 'meme coins' traded at exchanges with public prices.

⁴¹⁶ This may include, for example, a non-fungible crypto-asset evidencing an exclusive property right in a specific tangible asset in real estate (such as a house or commercial property), or intangible asset such as a patent.

well as the Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments.⁴¹⁷

- c. Article 2(4): does the crypto-asset qualify as a relevant product enlisted in that paragraph? Regulation (EU) 2023/1114 does not apply to financial instruments, deposits, structured deposits, funds (except e-money tokens), securitisation positions (per Regulation (EU) 2017/2402⁴¹⁸), insurance products and reinsurance contracts (per Directive 2009/138/EC), pension products primarily providing retirement income, officially recognised occupational pension schemes (per Directives (EU) 2016/2341⁴¹⁹ and 2009/138/EC⁴²⁰), employer-mandated individual pension products, pan-European Personal Pension Products (per Regulation (EU) 2019/1238⁴²¹), and social security schemes (per Regulations (EC) No 883/2004⁴²² and (EC) No 987/2009⁴²³).
22. Without prejudice to any other relevant materials, the information referred to in paragraph 13 of these Guidelines should be taken into account for the purposes of assessing whether the cryptoasset is a:
- a. financial instrument, competent authorities and other persons to whom these Guidelines are addressed should apply the Guidelines issued by the European Securities and Markets Authority under Article 2(5) of Regulation (EU) 2023/1114;⁴²⁴
 - b. deposit, competent authorities and other persons to whom these Guidelines are addressed should refer to European Banking Authority's 2014 Opinion and Report and 2020 Opinion on the perimeter of credit institutions, which provide indications on the notion of 'deposit'⁴²⁵ and to the EBA's 2024 Report on structured deposits⁴²⁶;

⁴¹⁷ Link to be added once ESMA GL are final (for the consultation paper, see ESMA75-453128700-52).

⁴¹⁸ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

⁴¹⁹ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

⁴²⁰ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

⁴²¹ Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

⁴²² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

⁴²³ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

⁴²⁴ Link to be added once ESMA GL are final (for the consultation paper, see ESMA75-453128700-52).

⁴²⁵ EBA 2014 Opinion and Report on the perimeter of credit institutions: <https://www.eba.europa.eu/publications-andmedia/press-releases/eba-publishes-opinion-perimeter-credit-institutions> and EBA 2020 Opinion: https://www.eba.europa.eu/sites/default/files/document_library/Publications/Opinions/2020/931784/EBA%20Opinion%20on%20elements%20of%20the%20definition%20of%20credit%20institution.pdf

⁴²⁶ EBA 2024 Report on structured deposits: <https://www.eba.europa.eu/sites/default/files/2024-07/b807c1a8-6f1d-4c2bb2a0-2cdcb7737282/Report%20on%20structured%20deposits.pdf>

- c. insurance product or insurance contract, competent authorities and other persons to whom these Guidelines are addressed should recall that there is no explicit definition of insurance at EU level, either as an activity or a contract.⁴²⁷
- 23. If none of the exclusions referred to in paragraph 22 apply, competent authorities and other persons to whom these Guidelines are addressed should assess the characteristics of the cryptoassets to determine if the crypto-asset is an EMT, ART or other crypto-asset under Regulation (EU) 2023/1114 and should take into account the following:
 - a. Does the crypto-asset purport to maintain a stable value by referencing only the value of a single official currency? If so, it is to be classified as an EMT pursuant to Title IV of Regulation (EU) 2023/1114.
 - b. If the crypto-asset does not purport to maintain a stable value by referencing only the value of a single official currency, does it purport to maintain a stable value by reference to another value or right (or combination thereof), including one or more official currencies? If so, it is to be classified as an ART pursuant to Title III of Regulation (EU) 2023/1114.
 - c. If the crypto-asset does not purport to maintain a stable value by referencing another value or right (and is therefore not an ART or EMT) it is to be classified as a crypto-asset pursuant to Title II of Regulation (EU) 2023/1114.

⁴²⁷ Final Report of the Commission Expert Group on European Insurance Contract Law. European Commission, 2014, p 38 ff.

Annex A – Template

This template is provided for the purposes of the explanation referred to in Article 8(4) of Regulation (EU) 2023/1114.

TEMPLATE: EXPLANATION FOR THE PURPOSES OF ARTICLE 8(4) REGULATION (EU) 2023/1114

An explanation prepared for the purposes of Article 8(4) Regulation (EU) 2023/1114 (MiCAR) should contain information for each of the below fields.

Information about explanation	Date on which this explanation is issued	
	Name of the person(s) (legal or natural) issuing this explanation	<i>Please include: name, address, email address, and telephone number.</i>
	Point of contact of the person(s) (legal or natural) issuing this explanation (if different to above)	<i>Please include: name, address, email address, and telephone number.</i>
	Confirmation that this explanation is issued for the purposes of Article 8(4) of MiCAR	<i>Please confirm.</i>
Information about offeror(s), person(s) seeking admission to trading, and/or operators of trading	Name of the offeror(s), person(s) seeking admission to trading, or operator(s) of trading platforms, on whose behalf this explanation is issued	<i>Please use the Annex to this template for the provision of this information.</i>
	White paper to which this explanation refers (this should be the 'final version' of the white paper submitted for the purpose of Article 8(1) of MiCAR))	<i>Please indicate the date of the white paper notified for the purposes of Article 8(1) of MiCAR, and assessed for the purposes of this explanation and to which this explanation refers. Please also attach a copy of the white paper to this explanation.</i>
	Member State(s) in which the offer to the public or admission to trading will take place	
Crypto-asset	Applicable law	<i>Please indicate the law applicable to the crypto-asset as referred to in the white paper.</i>
	Executive summary of the regulatory classification of the crypto-asset	<i>Please indicate the purported regulatory classification and any key points you wish to highlight in the executive summary.</i>

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

	Detailed explanation that the crypto-asset to which the white paper relates is not an electronic money token within the meaning of Article 3(1), point (7), of MiCAR	<i>Explanation may be provided in an Annex and should include all aspects that demonstrate that the cryptoasset is not intended to purport to maintain a stable value by reference to an official currency, with full cross-references to the relevant provisions of the white paper.</i>
	Detailed explanation that the crypto-asset to which the white paper relates is not an asset-referenced token within the meaning of Article 3(1), point (6), of MiCAR	<i>Explanation may be provided in an Annex and should include all aspects that demonstrate that the cryptoasset is not intended to purport to maintain a stable value by reference to another value or right or a combination thereof, with full cross-references to the relevant provisions of the white paper.</i>
	Detailed explanation that the crypto-asset is not any of the following:	
	- Financial instrument, as referred to in Article 2(4), point (a), of MiCAR.	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation (including the Guidelines adopted pursuant to Article 2(5) of MiCAR): Explanation: <i>Note: Explanation may be supplemented in an Annex and should include all aspects that demonstrate that the crypto-asset is not a financial instrument. The explanation should indicate why the crypto-asset does not correspond to any of the financial instrument types (transferable security, money market instrument etc), make full reference to the ESMA Guidelines under Article 2(5) of MiCAR, and any applicable case law, or relevant regulatory or supervisory materials issued by the competent authority for the purposes of [MiFID2] in the home Member State within the meaning of Article 3(1), point (33), of MiCAR</i>

	- Deposits, including structured deposits, as referred to in Article 2(4), point (b), of MiCAR	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation: Explanation: <i>Note: Explanation should include all aspects that demonstrate that the crypto-asset is not a deposit. The explanation should make full reference to any applicable case law, or relevant regulatory or supervisory materials issued by the competent authority for the purposes of [CRD/CRR] in the home Member State within the meaning of Article 3(1), point (33), of MiCAR.</i>
	- Funds as referred to in Article 2(4), point (c), of MiCAR	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation: Explanation: <i>Note: Explanation should include all aspects that demonstrate that the crypto-asset is not funds. The explanation should make full reference to any applicable case law, or relevant regulatory or supervisory materials issued by the competent authority for the purposes of Directive (EU) 2015/2366 of the European Parliament and of the Council in the home Member State within the meaning of Article 3(1), point (33), of MiCAR.</i>
	Brief explanation, unless more detailed assessment is relevant, that the cryptoasset is not any of the following:	

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

	- Securitisation positions as referred to in Article 2(4), point (d), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a securitisation position.</i>
	- Non-life or life insurance products or reinsurance or retrocession contracts as referred to in Article 2(4), point (e), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a non-life or life insurance product.</i>
	- Pension product as referred to in Article 2(4), point (f), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a pension product.</i>
	- Officially recognised occupational pension schemes as referred to in Article 2(4), point (g), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not an occupational pension scheme.</i>
	- Individual pension products as referred to in Article 2(4), point (h), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not an individual pension product.</i>
	- Pan-European Pension Products as referred to in Article 2(4), point (i), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a Pan-European Pension Product</i>
	Social security schemes as referred to in Article 2(4), point (j), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a social security scheme.</i>
Additional relevant information		<i>Note: Please set out such other information as you consider appropriate to explain the regulatory classification of the crypto-asset.</i>

ANNEX TO TEMPLATE: INFORMATION ABOUT OFFERORS, PERSONS SEEKING ADMISSION TO TRADING, OPERATORS OF TRADING PLATFORMS

Name of the offeror(s), person(s) seeking admission to trading, or operator(s) of trading platforms, on whose behalf this explanation is issued	Regulated status (if any) of the offeror(s), person(s) seeking admission to trading, or operator(s) (authorisation or registration to carry out financial services activity/ies)	LEI (if applicable)	EEA/Member State of establishment, branch or registered office (as applicable)	Point of contact
			<i>Please indicate jurisdiction and status (establishment, branch, registered office).</i>	<i>Please include: name, address, email address, and telephone number.</i>

Annex B – Template

This template is provided for the purposes of the legal opinion referred to in Article 17(1), point (b)(ii) and Article 18(2), point (e) of Regulation (EU) 2023/1114.

TEMPLATE: LEGAL OPINION FOR THE PURPOSES OF ARTICLE 17(1), point (b)(ii) and ARTICLE 18(2), point (e) REGULATION (EU) 2023/1114

An Opinion issued for the purposes of these articles should contain information for all the below fields.

Information about Opinion	Date on which this Opinion is issued	
	Name of the person(s) (legal or natural) issuing this Opinion	<i>Please include: name, address, email address, and telephone number.</i>
	Point of contact of the person(s) (legal or natural) issuing this Opinion (if different to above)	<i>Please include: name, address, email address, and telephone number.</i>
	Declaration of any potential conflicts of interest and measures to manage effectively those conflicts	
	Evidence of the person(s) ability to act as a legal adviser	<i>Please include as much information as possible, e.g. degree, licence, professional registration number, certificate to practice law etc.</i>
	Purpose for which this Opinion is issued	Specify: - Article 17(1), point (b)(ii), or - Article 18(2), point (e), of MiCAR
Information about person intending to offer to the public or seek admi	Name of the credit institution/financial institution/other undertaking intending to offer to the public, or seek admission to trading of the crypto-asset on whose behalf this Opinion is issued	
	Regulated status (authorisation or registration to carry out financial services activity/ies)	<i>E.g. credit institution, electronic money institution etc.</i>
	LEI (if applicable)	
	EEA/Member State of establishment	

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

	Point of contact	<i>Please include: name, address, email address, and telephone number.</i>
	Intention of the credit institution/financial institution/other undertaking	<i>Specify: - Offer to the public - Seek admission to trading</i>
	White paper to which this Opinion refers <i>(this should be the 'final version' of the white paper submitted for the purpose of Article 17(1), point (b) (ii) and Article 18 (2), point (e) of MiCAR)</i>	<i>Please indicate the date of the white paper assessed for the purposes of this Opinion and to which this Opinion refers. Please also attach a copy of the white paper to this Opinion.</i>
	Member State(s) in which the offer to the public or admission to trading will take place	
Crypto-asset	Applicable law	<i>Please indicate, the law applicable to the crypto-asset as referred to in the white paper.</i>
	Executive summary of the regulatory classification of the crypto-asset	<i>Please indicate the purported regulatory classification and any key points you wish to highlight in the executive summary.</i>
	Opinion, with detailed explanation, that the digital representation to which this Opinion relates is a crypto-asset within the meaning of Article 3(1), point (5), of MiCAR	<i>Explanation may be provided in an Annex and should cover all aspects of the definition of 'crypto-asset', including the value or right, and the distributed ledger technology or similar technology on which the crypto-asset may be transferred or stored.</i>
	Detailed description of the value or right or official currencies to which the cryptoasset refers	<i>Description should set out the value, right or official currencies to which the crypto-asset refers and is intended to purport to maintain a stable value, with full cross-references to the relevant provisions of the white paper.</i>
	Opinion, with detailed explanation, that the crypto-asset to which this Opinion relates is not an electronic money token within the meaning of Article 3(1), point (7), of MiCAR	<i>Explanation may be provided in an Annex to the Opinion and should include all aspects that demonstrate that the crypto-asset is not intended to purport to maintain a stable value by reference to a single official currency, with full cross-references to the relevant provisions of the white paper.</i>

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

	Opinion, with detailed explanation, that the crypto-asset to which this Opinion relates is not any of the following:	
	- Financial instrument, as referred to in Article 2(4), point (a), of MiCAR.	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation (including the Guidelines pursuant to Article 2(5) of MiCAR): Explanation: <i>Note: Explanation may be supplemented in an Annex and should include all aspects that demonstrate that the crypto-asset is not a financial instrument. The explanation should indicate why the crypto-asset does not correspond to any of the financial instrument types (transferable security, money market instrument etc), make full reference to the ESMA Guidelines under Article 2(5) of MiCAR, and any applicable case law, or relevant regulatory or supervisory materials issued by the competent authority for the purposes of [MiFID2] in the home Member State within the meaning of Article 3(1), point (33), of MiCAR</i>
	- Deposits, including structured deposits, as referred to in Article 2(4), point (b), of MiCAR	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation: Explanation: <i>Note: Explanation may be provided in an Annex and should include all aspects that demonstrate that the crypto-asset is not a deposit. The explanation should make full reference to any applicable case law, or</i>

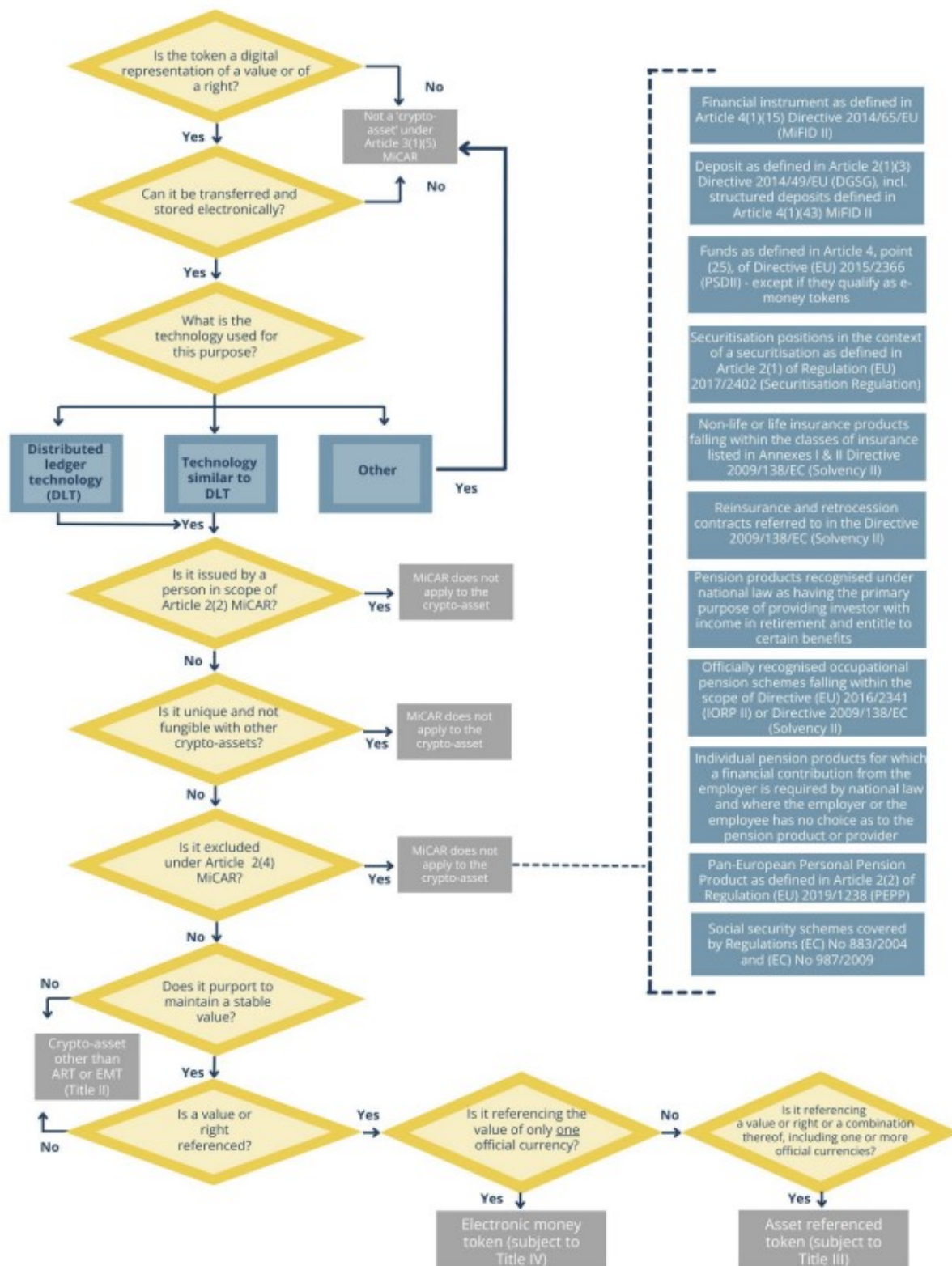
		<i>relevant regulatory or supervisory materials issued by the competent authority for the purposes of [CRD/CRR] in the home Member State within the meaning of Article 3(1), point (33) of MiCAR.</i>
	- Funds as referred to in Article 2(4), point (c), of MiCAR	Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation: Explanation: <i>Note: Explanation may be provided in an Annex and that demonstrate that the crypto-asset is not funds. The explanation should make full reference to any applicable case law, or relevant regulatory or supervisory materials issued by the competent authority for the purposes of [PSD] in the home Member State within the meaning of Article 3(1), point (33), of MiCAR.</i>
	Brief explanation, unless more detailed assessment is relevant, that the cryptoasset is not any of the following:	
	- Securitisation positions as referred to in Article 2(4), point (d), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a securitisation position.</i>
	- Non-life or life insurance products or reinsurance or retrocession contracts as referred to in Article 2(4), point (e), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a non-life or life insurance product.</i>
	- Pension products as referred to in Article 2(4), point (f), of MiCAR	<i>Explanation should confirm that the crypto-asset is not a pension product.</i>
	- Officially recognized occupational pension schemes as referred to in Article 2(4), point (g), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not an occupational pension scheme.</i>

APPENDIX 52: ESA'S GUIDELINES ON TEMPLATES FOR EXPLANATIONS AND OPINIONS, AND THE STANDARDISED TEST FOR THE CLASSIFICATION OF CRYPTO-ASSETS, UNDER ARTICLE 97(1) OF REGULATION (EU) 2023/1114

	- Individual pension products as referred to in Article 2(4), point (h), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not an individual pension product.</i>
	- Pan-European Pension Products as referred to in Article 2(4), point (i), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a Pan-European Pension Product.</i>
	- Social security schemes as referred to in Article 2(4), point (j), of MiCAR	<i>Note: Explanation should confirm that the crypto-asset is not a social security scheme.</i>
Opinion, with full explanation that the crypto-asset is within the meaning of Article 3(1), point (6), of MiCAR		Source of definition(s) (EU and/or national law as applicable): Case law (including paragraph references, as appropriate) to which reference is made in the explanation: Regulatory measures or guidance to which reference is made in the explanation: Explanation: <i>Note: Explanation should not repeat the foregoing but should describe the attributes of the crypto-asset that conform to the definition of 'asset-referenced token'. The explanation may be provided in an Annex to this Opinion and should refer to all relevant provisions of the white paper, among any other materials, that are considered relevant in supporting the Opinion as to the regulatory classification of the crypto-asset</i>
Additional relevant information		<i>Note: Please set out such other information as you consider appropriate to explain the regulatory classification of the crypto-asset.</i>

Annex C – Flow chart

This flow chart is provided for the purposes of the standardised test referred to in Article 97(1) of Regulation (EU) 2023/1114.



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