

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

Fields marked with * are mandatory.

Introduction

Background for this consultation

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

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

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

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

With this consultation, the Commission services therefore:

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

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

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

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

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

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

Responding to this consultation

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

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

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

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

More information on

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

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐

- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☒ Business association
- ☐ Company/business
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority

- ☐ Trade union
- ☐ Other

* First name

Myriam

* Surname

Dana-Thomae

* Email (this won't be published)

myriam.dana-thomae@france-post-marche.fr

* Organisation name

255 character(s) maximum

France Post Marché

* Organisation size

- ☒ Micro (1 to 9 employees)
- ☐ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

982840296176-53

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|-------------------------------------|--------------------------------|-------------------------------------|---|
| ☐ Afghanistan | ☐ Djibouti | ☐ Libya | ☐ Saint Martin |
| ☐ Åland Islands | ☐ Dominica | ☐ Liechtenstein | ☐ Saint Pierre and Miquelon |
| ☐ Albania | ☐ | ☐ Lithuania | ☐ |

	Dominican Republic		Saint Vincent and the Grenadines
☐ Algeria	☐ Ecuador	☐ Luxembourg	☐ Samoa
☐ American Samoa	☐ Egypt	☐ Macau	☐ San Marino
☐ Andorra	☐ El Salvador	☐ Madagascar	☐ São Tomé and Príncipe
☐ Angola	☐ Equatorial Guinea	☐ Malawi	☐ Saudi Arabia
☐ Anguilla	☐ Eritrea	☐ Malaysia	☐ Senegal
☐ Antarctica	☐ Estonia	☐ Maldives	☐ Serbia
☐ Antigua and Barbuda	☐ Eswatini	☐ Mali	☐ Seychelles
☐ Argentina	☐ Ethiopia	☐ Malta	☐ Sierra Leone
☐ Armenia	☐ Falkland Islands	☐ Marshall Islands	☐ Singapore
☐ Aruba	☐ Faroe Islands	☐ Martinique	☐ Sint Maarten
☐ Australia	☐ Fiji	☐ Mauritania	☐ Slovakia
☐ Austria	☐ Finland	☐ Mauritius	☐ Slovenia
☐ Azerbaijan	☒ France	☐ Mayotte	☐ Solomon Islands
☐ Bahamas	☐ French Guiana	☐ Mexico	☐ Somalia
☐ Bahrain	☐ French Polynesia	☐ Micronesia	☐ South Africa
☐ Bangladesh	☐ French Southern and Antarctic Lands	☐ Moldova	☐ South Georgia and the South Sandwich Islands
☐ Barbados	☐ Gabon	☐ Monaco	☐ South Korea
☐ Belarus	☐ Georgia	☐ Mongolia	☐ South Sudan
☐ Belgium	☐ Germany	☐ Montenegro	☐ Spain
☐ Belize	☐ Ghana	☐ Montserrat	☐ Sri Lanka
☐ Benin	☐ Gibraltar	☐ Morocco	☐ Sudan
☐ Bermuda	☐ Greece	☐ Mozambique	☐ Suriname
☐ Bhutan	☐ Greenland	☐ Myanmar/Burma	☐ Svalbard and Jan Mayen
☐ Bolivia	☐ Grenada	☐ Namibia	☐ Sweden

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| ☐ Bonaire Saint Eustatius and Saba | ☐ Guadeloupe | ☐ Nauru | ☐ Switzerland |
| ☐ Bosnia and Herzegovina | ☐ Guam | ☐ Nepal | ☐ Syria |
| ☐ Botswana | ☐ Guatemala | ☐ Netherlands | ☐ Taiwan |
| ☐ Bouvet Island | ☐ Guernsey | ☐ New Caledonia | ☐ Tajikistan |
| ☐ Brazil | ☐ Guinea | ☐ New Zealand | ☐ Tanzania |
| ☐ British Indian Ocean Territory | ☐ Guinea-Bissau | ☐ Nicaragua | ☐ Thailand |
| ☐ British Virgin Islands | ☐ Guyana | ☐ Niger | ☐ The Gambia |
| ☐ Brunei | ☐ Haiti | ☐ Nigeria | ☐ Timor-Leste |
| ☐ Bulgaria | ☐ Heard Island and McDonald Islands | ☐ Niue | ☐ Togo |
| ☐ Burkina Faso | ☐ Honduras | ☐ Norfolk Island | ☐ Tokelau |
| ☐ Burundi | ☐ Hong Kong | ☐ Northern Mariana Islands | ☐ Tonga |
| ☐ Cambodia | ☐ Hungary | ☐ North Korea | ☐ Trinidad and Tobago |
| ☐ Cameroon | ☐ Iceland | ☐ North Macedonia | ☐ Tunisia |
| ☐ Canada | ☐ India | ☐ Norway | ☐ Turkey |
| ☐ Cape Verde | ☐ Indonesia | ☐ Oman | ☐ Turkmenistan |
| ☐ Cayman Islands | ☐ Iran | ☐ Pakistan | ☐ Turks and Caicos Islands |
| ☐ Central African Republic | ☐ Iraq | ☐ Palau | ☐ Tuvalu |
| ☐ Chad | ☐ Ireland | ☐ Palestine | ☐ Uganda |
| ☐ Chile | ☐ Isle of Man | ☐ Panama | ☐ Ukraine |
| ☐ China | ☐ Israel | ☐ Papua New Guinea | ☐ United Arab Emirates |
| ☐ Christmas Island | ☐ Italy | ☐ Paraguay | ☐ United Kingdom |

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| ☐ Clipperton | ☐ Jamaica | ☐ Peru | ☐ United States |
| ☐ Cocos (Keeling) Islands | ☐ Japan | ☐ Philippines | ☐ United States Minor Outlying Islands |
| ☐ Colombia | ☐ Jersey | ☐ Pitcairn Islands | ☐ Uruguay |
| ☐ Comoros | ☐ Jordan | ☐ Poland | ☐ US Virgin Islands |
| ☐ Congo | ☐ Kazakhstan | ☐ Portugal | ☐ Uzbekistan |
| ☐ Cook Islands | ☐ Kenya | ☐ Puerto Rico | ☐ Vanuatu |
| ☐ Costa Rica | ☐ Kiribati | ☐ Qatar | ☐ Vatican City |
| ☐ Côte d'Ivoire | ☐ Kosovo | ☐ Réunion | ☐ Venezuela |
| ☐ Croatia | ☐ Kuwait | ☐ Romania | ☐ Vietnam |
| ☐ Cuba | ☐ Kyrgyzstan | ☐ Russia | ☐ Wallis and Futuna |
| ☐ Curaçao | ☐ Laos | ☐ Rwanda | ☐ Western Sahara |
| ☐ Cyprus | ☐ Latvia | ☐ Saint Barthélemy | ☐ Yemen |
| ☐ Czechia | ☐ Lebanon | ☐ Saint Helena
Ascension and
Tristan da Cunha | ☐ Zambia |
| ☐ Democratic Republic of the Congo | ☐ Lesotho | ☐ Saint Kitts and Nevis | ☐ Zimbabwe |
| ☐ Denmark | ☐ Liberia | ☐ Saint Lucia | |

* Field of activity or sector (if applicable)

- ☐ Accounting
- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☒

Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)

- ☐ Social entrepreneurship
- ☐ Other
- ☐ Not applicable

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, ‘business association’, ‘consumer association’, ‘EU citizen’) country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ **Anonymous**

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

☒ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)

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

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

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

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

1.1 MiCA scope & crypto-asset classification

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

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

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

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

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

5000 character(s) maximum

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

1.1 Crypto-assets that qualify as financial instruments should continue to be governed by the relevant sectoral legislation, including MiFID/MiFIR, MAR, the Prospectus Regulation and, where relevant, the broader post-

trade and market infrastructure acquis. MiCA should not become the sole or primary framework for assets or services that, in substance, fall within the scope of financial instruments law. Financial regulation should remain technology neutral. The fact that an asset is recorded, issued or transferred on DLT does not justify moving it out of the financial instruments' framework where its legal and economic features already bring it within that framework.

In our view, tokenisation does not alter the legal nature of a traditional financial asset. Where an asset was originally issued and classified as a financial instrument, its tokenisation should not trigger a requalification under MiCA. Likewise, where a natively issued crypto-asset displays the features of a transferable security, a money-market instrument, a unit in a collective investment undertaking, or a derivative, it should be treated under the relevant financial services legislation rather than under MiCA. This is consistent with the "same activity, same rules" principle and is preferable to any approach that would make MiCA the default regime for all DLT-recorded assets.

Additional clarifications are needed but should not take the form of assimilating financial instruments to MiCA. The EU framework should rather clarify the boundary between MiCA and MiFID/MiFIR through more operational classification criteria, greater supervisory convergence, and clearer treatment of borderline cases. Moreover, Financial institutions holding a CASP license represented within FPM take the same approach and advocate maintaining the status quo under the existing regimes: The two regimes should not be merged. The legal and economic nature of the asset should always prevail over its recording technology. Tokenisation is a method of issuance, recording or transfer; it should not be treated as a regulatory requalification trigger. A tokenised bond, share, fund unit or derivative should not become a MiCA crypto-asset merely because it is represented or transferred through DLT. Equally, a natively issued on-chain asset that confers rights equivalent to those attached to transferable securities or other financial instruments should remain within the financial instruments' framework. This distinction is essential to avoid legal uncertainty, regulatory arbitrage and inconsistent licensing outcomes across the value chain.

1.2 No, the current distinction is not yet sufficiently clear in practice. Clarification is still needed, but that clarification should not take the form of assimilating financial instruments into MiCA. Instead, the EU framework should further clarify the boundary between MiCA and MiFID/MiFIR, notably through more operational classification criteria, supervisory convergence and clearer treatment of borderline cases. The objective should be to reduce legal uncertainty and regulatory arbitrage, not to replace the sectoral acquis for financial instruments

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

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

5000 character(s) maximum

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

Only partially. ESMA's guidelines and the standardised classification test have not eliminated material uncertainty in practice. The case-by-case approach is conceptually appropriate because it preserves flexibility and avoids an overly rigid one-size-fits-all framework. However, it still leaves room for divergent interpretations across competent authorities, higher compliance costs, legal uncertainty for issuers and intermediaries, and potential forum shopping.

The most difficult borderline cases remain hybrid tokens, tokens combining payment, investment and store-of-value functions, tokenised interests in collective investment undertakings, instruments with money-market or derivative-like features, and representative or mirrored token structures. Additional uncertainty also arises where the same asset may be viewed differently by different actors in the value chain, creating licensing and prudential issues for service providers if an asset is reclassified from MiFID to MiCA or vice versa. Policy action should therefore focus on clarification, not assimilation. In particular, the EU should provide more concrete operational criteria for determining when a DLT-based asset remains or becomes a financial instrument; clarify the treatment of tokens with a “payment function” that may also have investment characteristics; distinguish more clearly between tokenised traditional assets and natively issued crypto-assets; and promote stronger supervisory convergence across Member States. The aim should be to improve delineation between MiCA and MiFID/MiFIR, while preserving the exclusion of financial instruments from MiCA. ESMA’s guidelines do not yet provide the level of legal certainty needed for large-scale institutional tokenisation. In particular, they do not fully resolve the treatment of representative tokens, mirrored tokens, tokenised interests in funds, hybrid tokens combining payment and investment features, and arrangements where a token gives access to or represents rights over an off-chain asset. The distinction between native and non-native tokens should be expressly integrated into the classification analysis. A token natively issued on-chain and a token representing an off-chain asset do not raise the same legal issues and should not be assessed through an undifferentiated approach.

1.2 Transparency rules and ex post supervisory control regime

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

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

a) Please assess each provision below along their adequacy:

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

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

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

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

An issuer may not qualify as a CASP under the current regulatory framework, which is consistent with the approach taken for financial instruments.

Furthermore, the regulatory framework established under MiCA is coherent as it currently stands. The regulatory framework should remain stable to allow market participants to further develop their offerings, stabilize their internal organizations, and enable the EU financial market to remain competitive with other regions worldwide.

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

The categories that remain most difficult to classify are those at the boundary between MiCA and financial instruments legislation. These include, in particular: hybrid tokens; tokens combining payment, investment and store-of-value functions; tokenised fund interests; instruments with money-market instrument or derivative features; representative or mirrored token structures; and fractionalised or series-issued NFTs. These categories illustrate that MiCA should not operate as a default catch-all regime where the financial instruments analysis is complex.

In our view, the correct response is not to fold these categories into MiCA, but to improve legal certainty on the MiCA/MiFID boundary. The framework should preserve the principle that assets with the features of financial instruments remain governed by the relevant sectoral legislation, while MiCA continues to apply only to assets that do not fall within that perimeter.

The classification difficulty is particularly acute for non-native or representative tokens, where the token may not itself constitute the legal asset but may instead represent evidence or give access to rights over an asset constituted off chain. In those cases, the regulatory analysis should identify whether the legally relevant asset is the token itself, the underlying off-chain asset, a claim against an intermediary, or a combination of these elements. Without such analysis, there is a risk of double representation, double counting of rights, or inconsistent treatment between the issuer, the platform, the custodian and the investor.

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

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

Please explain your answer to question 8:

5000 character(s) maximum

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

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

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

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

2.1 The future role of stablecoins

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

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

Please explain your answers to question 9:

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

2.2 Prudential regime and capital requirements

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

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

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

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

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

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

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

5000 character(s) maximum

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

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

Please rate each factor below:

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

Please explain your answers to question 12:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

2.3 Liquidity and reserve requirements

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

Custody requirements for reserve assets should not be relaxed. They should be maintained at a high level and, for significant ARTs, strengthened where necessary. In particular, the framework should ensure robust legal and operational segregation, high-quality safekeeping arrangements, clear allocation of responsibilities across the custody chain, and rapid restitution or transferability in stressed scenarios. Any recalibration should remain technology-neutral and focused on investor protection, operational resilience and legal certainty rather than on the underlying technology used.

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

Custody and segregation requirements for EMT reserve assets are a core investor protection tool and should remain strict. In our view, legal and operational segregation of reserve assets from the issuer's estate and from other token reserves is essential and should not be weakened. For significant EMTs, additional safeguards may be justified, notably in terms of custody governance, traceability of reserve location, operational transferability under stress, and enhanced auditability.

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

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

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

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

5000 character(s) maximum

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

2.4 Criteria for determining significance

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

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

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

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

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

2.5 Interest payment

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

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

a) for EMTs:

- ☐ No, interest and interest-equivalent remuneration should continue to be prohibited
- ☐ Yes, interest or interest-equivalent remuneration should be allowed under defined conditions

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

b) for ARTs:

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

2.6 Redemption

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

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

5000 character(s) maximum

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

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

a) In a normal market situation

- ☐ I would likely spend them (e.g. on goods or services)
- ☐ I would likely sell or exchange them with a broker or at a trading venue
- ☐ I would likely turn to the EMT issuer or his agent to exercise my statutory redemption right

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

b) In a stressed market situation

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

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

5000 character(s) maximum

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

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

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

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

Prohibition of redemption fees	☐	☐	☐	☐
Conditions, procedures, and transparency of redemption policies	☐	☐	☐	☐
Supervisory powers to intervene in or trigger redemption plans	☐	☐	☐	☐

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

5000 character(s) maximum

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

2.7 Stability issues

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

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

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

a) Current MiCA requirements for ARTs

	Weaken	Keep as is	Strengthen	Don't know - No opinion - Not applicable

Recovery plans	☐	☐	☐	☐
Redemption plans	☐	☐	☐	☐

b) Current MiCA requirements for EMTs

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

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

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

2.8 Global stablecoins arrangements and interactions with other regulatory frameworks

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

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

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

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

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

Please explain your answers to question 27:

5000 character(s) maximum

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

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

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

Please explain your answers to question 28:

5000 character(s) maximum

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

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

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

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

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

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

5000 character(s) maximum

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

For stablecoin issuers (who are not necessarily required to have obtained CASP authorisation), FPM supports the adoption of additional measures on the multi-issuance regime, in order to ring-fence European reserves for the benefit of European stablecoin investors or holders.

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

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

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

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

5000 character(s) maximum

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

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

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

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

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

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

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

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

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

							Don't know -
--	--	--	--	--	--	--	--------------

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

Please explain your answers to question 33:

5000 character(s) maximum

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

2.10 Current safeguards in MiCA

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

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

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

Please explain your answers to question 34:

5000 character(s) maximum

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

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

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

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

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

5000 character(s) maximum

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

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

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

2.11 Potential additional safeguards

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

Is this concern valid or substantiated in your view?

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

Please explain your answer to question 37:

5000 character(s) maximum

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

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

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

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

Please explain your answers to question 38:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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

Please explain your answers to question 42:

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 44:

5000 character(s) maximum

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

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

MiCA created a legal framework for crypto-asset service providers. While provisions governing crypto asset service providers have been in operation only since the end of 2024 and a transitional period for service providers that were already on the market is still in place in a number of Member States, a substantial number of crypto asset service providers have now been authorised across a range of Member States and service categories (currently, there are

around 170 CASPs listed in the ESMA register – including both authorised CASPs and other entities that have notified to their national competent authorities their intention to provide crypto-asset services. These authorisations or notifications come from 18 different Member States).

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

3.1 Crypto-asset services

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

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

Please explain your answer to question 45:

5000 character(s) maximum

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

The current list of crypto-asset services is broadly adequate, but further clarification is needed rather than multiplication of categories. In particular, the concept of custody and administration should remain centered on the safekeeping or control of crypto-assets or their means of access on behalf of clients, combined with position-keeping and restitution obligations. By contrast, purely technical tools that do not give the provider control over the assets or over the client's means of access should not be treated as custody services.

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

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

5000 character(s) maximum

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

No additional service category should be added merely to capture technical arrangements that are already covered by the existing notions of custody, administration, transfer or execution. Staking does not necessarily require a fully standalone MiCA service category in all cases, but it should be subject to a dedicated functional set of obligations where a service provider organises, facilitates or intermediates staking on behalf of clients. Treating staking merely as an ancillary feature of custody is insufficient where the arrangement affects the availability of client assets, the allocation of rewards and losses, or the legal entitlement to the staked assets in

insolvency.

The priority should be legal clarification of existing categories, including explicit confirmation that wallet software or technical access tools are not custody services where the provider does not control the assets or the means of access.

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

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

Please explain your answer to question 47:

5000 character(s) maximum

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

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

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

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

3.2 Prudential requirements for CASPs

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

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

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

Please explain your answer to question 49:

5000 character(s) maximum

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

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

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

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

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



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

5000 character(s) maximum

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

3.3 Multi-function groups

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

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

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

3.4 Reporting

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

Question 52. Should CASPs report regularly their activities?

	Yes	No	Don't know - No opinion - Not applicable
Direct holdings of crypto-assets by CASPs	☐	☐	☐

Large exposures to derivatives with crypto-assets as the underlying asset	☐	☐	☐
Volumes of leveraged contracts and the extent to which leverage is actually used on trading platforms	☐	☐	☐
Information on counterparty risk	☐	☐	☐

3.5 Environmental and sustainability reporting

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

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

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

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

Please explain your answer to question 53:

5000 character(s) maximum

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

3.6 Other issues

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

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 55:

5000 character(s) maximum

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

The clarifications introduced in the PSD3/PSR framework regarding the interplay between MiCA and the payment services framework are a welcome step towards greater legal certainty. In particular, the introduction of targeted exclusions from PSD3/PSR for certain EMT transactions and exchanges should help reduce

overlapping regulatory requirements for CASPs.

However, further clarifications remain necessary, notably regarding:

1. Confirmation that transactions involving tokenised financial instruments remain fully subject to the financial services regulatory framework and continue to benefit from PSD2/PSD3 exclusions, regardless of the settlement technology used.
2. Clarification that the use of EMTs as settlement assets or as the cash component of a securities transaction does not, in itself, trigger payment services regulation for regulated financial instrument activities.
3. Additional guidance on the distinction between crypto-asset transfer services under MiCA and payment services under PSD3/PSR, particularly where account-keepers, market infrastructures or investment firms are involved.
4. Explicit confirmation that, as long as EMTs are not treated as fiat currency for depositary obligations, their use should not bring them within the cash monitoring framework under AIFMD and UCITS. EMTs are to be considered in that case as "other assets" for which the depositary should ensure record keeping and ownership verification.

Overall, while the proposed changes improve the MiCA/payment services interface, further clarifications would help maintain legal certainty, regulatory consistency, and avoid unintended overlaps between payment services regulation and financial instruments/custody activities.

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

PART 4. Policy areas beyond the current scope of MiCA

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

4.1 Decentralised finance

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

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

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

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

a) Exchange services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☐ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☐ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐

DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**

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

b) Payments and transactions services

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

c) Trading and investment services

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

d) Lending and borrowing services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☐ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☐ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐

DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**

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

e) Custody services

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

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

5000 character(s) maximum

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

For custody services, DeFi applications appear to offer limited benefits compared with regulated intermediated models. Where users retain exclusive control over their own means of access, the arrangement is closer to direct holding or self-custody than to a regulated custody service. Where a third party or protocol effectively controls user assets or access means, this raises questions of responsibility, legal qualification, segregation and redress that are better addressed through a regulated framework. For that reason, DeFi-based "custody" should not be presumed to be functionally equivalent to regulated custody.

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

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

Please explain your answers to question 60:

5000 character(s) maximum

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

All identified risks should be considered significant.

DeFi appears complex and insufficiently regulated. Several mechanisms could be considered to strengthen retail investor protection:

1. Enhanced disclosure obligations through standardised documentation on risks, fees, protocol governance, code audits, and key loss scenarios
2. Improved protocol transparency including publication of security audits, governance mechanisms, decision-making concentration, and oracle/smart contract risks
3. Development of certification or labelling mechanisms for protocols meeting minimum security, governance and transparency requirements

An activity-based and risk-based approach ("same activity, same risk, same regulation") appears preferable to a technology-only approach, to ensure a high level of investor protection while preserving innovation and the development of decentralised finance.

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

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

Please explain your answers to question 61:

5000 character(s) maximum

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

Custody of user assets by the DeFi protocol, or by an identifiable person controlling the protocol, should be regarded as a strong indicator that the arrangement is not fully decentralised. Effective control over user assets or over the means of access to those assets is incompatible with the notion of a purely decentralised and intermediary-free model. This criterion should be assessed together with other indicators such as admin keys, governance concentration and upgradeability, but it is one of the clearest functional indicators.

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

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

Question 62.1 Please specify how should MiCA account for risks from fully decentralised DeFi applications.

For the purpose of this question, certification of a DeFi application should be understood as verifying that it robustly mitigates against smart contract vulnerabilities, operational risk in general and functions in accordance with its publicised performance:

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
CASPs should be able to connect their clients to any decentralised DeFi application, subject to giving appropriate warnings and disclosures on risks	☐	☐	☐	☐	☐	☐
CASPs should be liable for certain types of incidents when they have provided access to the relevant DeFi application and clients have been affected	☐	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service global (permissionless) liquidity	☐	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service only verified liquidity (verified pools)	☐	☐	☐	☐	☐	☐

CASPs should only facilitate connection of their clients to decentralised DeFi applications that service global liquidity						
CASPs should be required to discontinue or discourage connecting clients to DeFi protocols that are strongly associated with illicit activity based on blockchain analytics						
CASPs should not facilitate connection to decentralised DeFi applications						
Public bodies should be required, or private organisations incentivised to publish whitelists or blacklists of DeFi protocols based on their risk profile						
Other						

Please explain your answers to question 62.1, including your reasoning and any suggestions for improvement, recalibration, or alternative approaches:

5000 character(s) maximum

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

62 - Yes. Where CASPs connect clients to DeFi applications, MiCA should require proportionate due diligence, especially where the relevant arrangement involves custody, transfer of client assets, or operational reliance on smart contracts. This should include assessment of control features, auditability, incident management, client disclosures and, where relevant, the legal consequences of asset loss or access failure. MiCA should not make CASPs strict guarantors of all DeFi outcomes, but they should not be permitted to intermediate access without a minimum level of assessment and disclosure.

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

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

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

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

Please explain your answers to question 64:

5000 character(s) maximum

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

We do not support making certification mandatory for software developers offering non-custodial wallets as a matter of principle. Where the provider does not control the assets or the means of access on behalf of clients, the activity should not be equated with custody. Mandatory certification could therefore create category confusion and unduly regulate software tools that do not perform a regulated safekeeping function. By contrast, voluntary or incentivised certification for cybersecurity, resilience and transparency purposes may be useful, provided it does not imply that non-custodial wallet providers are custody service providers.

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

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

Please explain your answers to question 65:

5000 character(s) maximum

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

4.2 Staking, lending and borrowing of crypto-assets

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

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

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

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

What specific requirements should be applied to staking service providers?

5000 character(s) maximum

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

No, the current approach is not fully adequate. Staking should not be addressed only as an ancillary feature of custody. While staking services often involve custody or control over crypto-assets or private keys, the legal and operational risks associated with staking go beyond ordinary safekeeping. These risks include the immobilisation of assets, slashing, delegation or validation failures, lock-up periods, possible commingling, unclear entitlement to rewards, and, in some structures, temporary transfers of ownership or title-like arrangements.

MiCA should therefore introduce a targeted and harmonised framework for staking services. This framework should include, at a minimum, a regulatory definition of staking, clear disclosure obligations, explicit and

informed client consent, segregation and position-keeping requirements, rules on allocation of rewards and losses, operational safeguards, and specific provisions addressing restitution and insolvency treatment.

Particular attention should be given to whether the staking arrangement entails a transfer of ownership, a mere delegation of validation rights, the immobilisation of client assets without transfer of title, or another legal structure. The legal consequences should be disclosed to clients in advance and reflected in the applicable restitution obligations.

The regime should also clarify the treatment of client assets and rewards in the event of insolvency of the staking service provider, validator, custodian or any other relevant intermediary. Investors should not be exposed to uncertainty as to whether they retain a proprietary interest, an entitlement to restitution, or merely an unsecured contractual claim.

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

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

What do you believe should be the main elements of regulatory requirements applicable to lending and borrowing and why?

5000 character(s) maximum

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

Yes. Lending and borrowing of crypto-assets should be regulated where they are offered or intermediated by a service provider. The key requirements should include clear disclosure of whether ownership or control of the crypto-assets is transferred, segregation or equivalent protection mechanisms, robust risk warnings, rules on rehypotheication and reuse, counterparty risk disclosure, treatment of collateral, and insolvency protections. As with staking, the regulatory objective should be to ensure that clients understand whether they retain a proprietary entitlement, a restitution claim or an unsecured contractual claim.

4.3 Non-fungible tokens

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

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

- ☐ Yes
- ☐ No
- ☐

Don't know / no opinion / not applicable

4.4 Prediction markets and perpetual futures

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

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

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

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

Please elaborate on your answer to question 69:

5000 character(s) maximum

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

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

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

Please explain your answer to question 70:

5000 character(s) maximum

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

By MiFID, where the relevant arrangement qualifies as a financial instrument or as an investment service /activity. The fact that a prediction market is DLT-enabled or facilitated through smart contracts should not, in itself, justify its assimilation into MiCA. In our view, MiCA should not become a substitute framework for products that are functionally equivalent to instruments or services already covered by the financial services acquis. The appropriate approach remains technology-neutral classification based on the rights, obligations and market function of the product.

Where a DLT-based prediction market does not fall within the scope of MiFID, that would call for a separate legal assessment. It would not justify turning MiCA into the default framework for all such arrangements.

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 72:

5000 character(s) maximum

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

Yes, by MiFID. Perpetual futures on crypto-assets and services relating to such perpetual futures should be governed by MiFID rather than MiCA. Derivative-type products should not be brought within MiCA merely because they refer to crypto-assets or are issued, traded or settled through DLT. Where a product has the characteristics of a derivative or another financial instrument, the "same activity, same rules" principle should apply and the relevant sectoral legislation should remain the governing framework.

Using MiCA as the sole framework in such cases would not be appropriate and could weaken legal certainty by blurring the line between crypto-asset regulation and financial instruments regulation. The better policy option is to preserve MiFID/MiFIR as the reference regime for financial instruments while continuing to refine the classification boundary where necessary.

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

5000 character(s) maximum

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

4.5 Tokenised deposits

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

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

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

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

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

Please explain your answers to question 74:

5000 character(s) maximum

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

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

Maximum 2 selection(s)

Please select as many answers as you like

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

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

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

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

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

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

4.6 Legal treatment of tokens

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

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

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

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

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

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

Question 80.1 Which of the following issues are most significant?

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

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

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

Please specify to what other issue(s) you refer in your answer to question 80.1:

5000 character(s) maximum

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

The answer is divided into three sections to comply with the maximum character limit.

There is material legal uncertainty as to the private law treatment of the issuance, holding and transfer of tokens under national law. This uncertainty is not uniform across all token types. It is significantly greater for tokenised financial instruments than for crypto-assets already subject to a public law framework under MiCA. It is also greater where the token is not natively issued on-chain and instead represents or mirrors an asset legally constituted off-chain.

The most significant issues concern: the issuance of tokenised financial instruments in compliance with national law; transfer of ownership, including good faith acquisition; recognition and opposability of rights against third parties; the use of tokens as collateral; rights of holders within intermediated custody chains; custody and control arrangements; enforcement of rights; and the treatment of tokens in insolvency. These issues should generally be regarded as high or very high in significance and urgency.

A further key issue is the need to distinguish clearly, in law, between native tokens and non-native or representative tokens. In our view, legal analysis should differentiate between: (i) a financial instrument natively issued on DLT; (ii) a technical token used to circulate an existing asset without itself being the legal asset; (iii) a tokenised intermediary representation of another asset; and (iv) a representative certificate. Legal certainty

cannot be achieved without such distinctions.

From a French law perspective, significant progress has been made in recognising the legal effects of DLT entries for certain financial instruments. However, this does not remove the broader uncertainty that remains at EU level regarding cross-border transfers, collateral, intermediated holdings, good faith acquisition, and insolvency.

From a French private international law perspective, the legal uncertainty surrounding tokens is particularly acute because the applicable connecting factor depends on the legal characterisation of the token and of the rights it represents. French law and French legal analysis do not support an undifferentiated treatment of all DLT-recorded assets. A distinction should therefore be made between tokenised financial instruments, other crypto-assets, native tokens, non-native or representative tokens, and tokens held through intermediated custody chains. This differentiated approach is consistent with the methodology reflected in French legal work on DLT assets, which favours substance over form and distinguishes financial instruments from other assets recorded on distributed ledgers.

For tokenised financial instruments, French private international law analysis should start from the existing securities law framework. In French law, the use of a distributed ledger does not, as such, eliminate the relevance of established securities law connecting factors. For registered securities recorded in a DLT register, the technology used to maintain the register should not alter the traditional connection to the law of the issuer. The DLT record is a method of recording the rights, not an autonomous connecting factor disconnected from the legal structure of the issuance. This is consistent with the French approach under which an entry in a distributed ledger may be treated as equivalent to an entry in a securities account, without dismantling the existing legal architecture of French securities law. For DLT financial instruments admitted to infrastructures under the EU DLT Pilot Regime, the analysis is different. The traditional account-based connecting factor may no longer be sufficient where the legally relevant record is maintained by a DLT market infrastructure. In that case, a more appropriate connecting factor may be the law of the Member State of the DLT infrastructure responsible for the recording and settlement of the instruments, notably where that infrastructure performs the relevant safekeeping, recording or settlement function. This approach allows proprietary effects, transfers and security interests to be linked to an objective and regulated system, rather than to purely technical or contractual features of the blockchain.

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

5000 character(s) maximum

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

By contrast, for crypto-assets that do not qualify as financial instruments, French law currently provides less certainty. French law has historically regulated services relating to crypto-assets, including custody or control of access means, but has not yet provided a comprehensive private law regime for the crypto-asset itself. In particular, while French law is able to recognise property rights over intangible assets in several contexts, the proprietary status of crypto-assets and the conflict-of-law rules applicable to their ownership, transfer, third-party effects and insolvency treatment remain insufficiently determined.

The difficulty is compounded by the absence of a physical situs for crypto-assets. Traditional private international law connecting factors, such as the location of the asset, are poorly adapted to assets recorded on a decentralised or distributed ledger. Where a token represents a claim, the use of contractual conflict-of-law rules may not be sufficient, because the most sensitive issues are proprietary and third-party effects, including opposability, priority, collateral enforcement and insolvency. A purely contractual law chosen by the parties or

embedded in the token should therefore not be treated as sufficient for all proprietary aspects.

French private international law also requires particular caution with non-native or representative tokens. Where a token represents rights over an off-chain asset, the relevant legal questions are not limited to the token itself. It is necessary to determine the law governing the underlying asset, the legal effects of the tokenisation arrangement, the register or system that is legally authoritative, the conditions under which the transfer of the token transfers or evidences rights over the underlying asset, and the effect of the arrangement as against third parties. Without such clarification, there is a risk of double representation or double existence of the same asset, in particular where a traditional form of the asset and a tokenised representation coexist.

This issue is particularly important for so-called mirrored or representative tokens. If a token directly represents a financial instrument, the legal framework should identify whether the token is itself the financial instrument, a technical record of the financial instrument, a certificate-like instrument, or a separate claim against an issuer or intermediary. French legal analysis should avoid leaving such structures entirely to contractual freedom where they directly affect ownership, transfer, good faith acquisition, security interests, attachment or insolvency. An objective rule is needed to identify the authoritative register and to prevent the concurrent circulation of the original asset and its tokenised representation.

A further issue concerns the distinction between legal ownership and technical control. French law should not equate the holding or transfer of a private key with ownership of the relevant asset. In the context of DLT financial instruments, the legally decisive event should remain the recording of rights in the legally recognised register, not the mere possession or transfer of the cryptographic means of access. This distinction is essential in order to preserve legal certainty for transfer of ownership, good faith acquisition, collateral, enforcement, loss of access, and insolvency.

This distinction is equally important in self-custody arrangements. Where a holder retains exclusive control over the means of access, the arrangement should not automatically be assimilated to regulated custody. However, self-custody does not remove the need to determine which law governs ownership, transfer, opposability, loss of access, succession, seizure and insolvency effects. Conversely, where an intermediary controls the tokens or the private keys on behalf of clients, additional conflict-of-law issues arise concerning the custody relationship, segregation, restitution, the proprietary or contractual nature of the client's rights, and the treatment of those rights in the insolvency of the intermediary.

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

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

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

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

5000 character(s) maximum

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

In our view, the French approach supports the introduction of a specific EU conflict-of-law rule for the proprietary aspects of tokens. Such rule should be limited to ownership or entitlement, transfer, third-party effects, collateral, enforcement and insolvency-related proprietary effects. It should not seek to harmonise all contractual, regulatory or prudential issues. The relevant connecting factor should be objective, legally ascertainable and sufficiently stable. It should preferably refer, depending on the structure, to the law of the issuer, the law of the legally recognised register, the law of the DLT infrastructure or the law of the regulated custodian or intermediary, rather than to the law unilaterally specified in the token or in the protocol documentation.

Finally, any EU rule should avoid encouraging forum shopping. A rule based primarily on party autonomy, on the law stated in the token, or on the law specified in the technical rules of a protocol could allow issuers, platforms or intermediaries to select the most favourable law without a sufficient objective connection to the asset or the holding structure. This would be particularly problematic for proprietary effects, third-party enforceability, collateral and insolvency. A functional but mandatory EU conflict-of-law rule for proprietary aspects would therefore be preferable to full harmonisation of property law, while providing the legal certainty needed for cross-border tokenised markets.

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

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

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

Please explain your answer and provide examples:

Most important element number 1:

5000 character(s) maximum

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

81. Legal certainty in the treatment of tokens should be increased through EU law. However, this should be done in a targeted and functional manner, rather than through a full and abstract harmonisation of national property laws.

The three most important elements that should be addressed in EU law are the following.

81.1 First, EU law should define the minimum legal effects of recording a token on a legally relevant DLT register. This should cover entitlement or ownership, transfer, opposability to third parties, and the exercise of rights. The objective should not be to redefine property law in the abstract, but to ensure that a legally recognised DLT record produces clear and predictable effects throughout the Union.

Most important element number 2:

5000 character(s) maximum

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

Second, EU law should introduce a specific conflict-of-law rule for the proprietary aspects of tokens. Existing EU rules only cover limited situations and do not address all token structures. A targeted rule is needed to determine the law applicable to ownership, transfer, collateral and third-party effects in a cross-border environment. The conflict-of-law rule should be based on an objective and legally ascertainable connecting factor. It should not be left solely to the law embedded in the token, the contractual documentation or the technical design of the protocol, as this could facilitate forum shopping and undermine third-party effects. The relevant connecting factor should be linked to the legally recognised register, the issuer or the regulated operating entity, depending on the token structure.

Most important element number 3:

5000 character(s) maximum

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

Third, EU law should establish a clearer legal typology of tokens. In particular, it should distinguish between native on-chain assets and tokens representing rights over off-chain assets. The same legal approach cannot apply in the same way to both categories.

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

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

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

5000 character(s) maximum

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

A full harmonisation of private law treatment appears premature and disproportionate at this stage, given the continued diversity of Member States' rules on company law, securities law and insolvency. By contrast, a combination of partial harmonisation, a specific EU conflict-of-law rule, and a functional EU rule on the legal effects of DLT entries would be both more realistic and more effective.

The most appropriate instrument would likely be a new targeted EU regulation or a dedicated legislative initiative, rather than the insertion of broad and insufficiently calibrated DLT references across multiple existing sectoral texts. The key risk of an overly ambitious EU ownership regime would be to destabilize well-established national and EU securities law concepts without providing operational certainty. This risk can be mitigated by limiting EU intervention to the legal effects of DLT entries and to cross-border conflict-of-law issues.

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

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

Maximum 2 selection(s)

Please select as many answers as you like

- ☐ **MODEL 1:** The token is the asset by law, the law recognises a ledger-based asset and the ownership rights are constituted directly by the ledger entry.
- ☐ **MODEL 2:** The token is the asset by law, where the law recognises that e.g. securities (dematerialised or physical) can be replaced by an entry into a DLT register and by this “replacing” (immobilisation) of the securities the function of the initial security is substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.



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

- ☒ **MODEL 4:** The token is the legal carrier of rights associated with a related (often off-chain) asset. The law defines tokens as legal objects that do not create new rights, but can –like a “container” –represent various kinds of rights, such as membership rights, ownership, intellectual property rights, usage rights or rights of lien etc. The token would represent the rights stemming from the underlying assets and the law would ensure that the transfer of a token on the ledger legally transfers ownership of the rights stemming from the underlying asset.

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

Art 5 TVTG states that the TT Key holder has the power of disposal over the Token. It is further assumed that the person possessing the power of disposal over a Token also has the right to dispose of the Token. For every previous holder of the power of disposal, it is presumed that he was the person possessing the right of disposal at the time of this ownership).

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

You selected:

MODEL 3: Token is the asset by law. In this case the law does not actively regulate legal aspects such as what

property is or how transfer of ownership occurs etc but instructs on the legal consequences of entries in a DLT register (this is often called a functional approach). The law could at EU level stipulate who may exercise rights, i.e. the person recorded in the DLT register as holder of a tokenised asset, that these rights have full third-party effect and protects from competing claims. This also creates legal certainty for collateral use. The EU law would create a uniform rule of “digital entitlement” that functions across all Member States’ property law structures.

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

5000 character(s) maximum

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

Model 3 is the most suitable basis for native on-chain assets. It allows EU law to define the legal effects of a DLT record in a functional way, without requiring a complete and uniform redefinition of property law in all Member States. This model is best suited to ensuring legal certainty as to entitlement, transfer, third-party effects and the use of tokens as collateral.

a) Legal interoperability with national private laws

A functional EU approach would be more interoperable with national private laws than a fully constitutive and uniform ownership regime. It would preserve national legal structures while ensuring that the legal consequences of DLT recording are recognised across the Union.

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

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

Please explain your answer to MODEL 3 b):

5000 character(s) maximum

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

b) Constitutive rules or functional rules

Functional rules are preferable. EU law should primarily regulate the legal effects of recording an asset on-chain, rather than attempting to create a single abstract and constitutive concept of ownership for all tokens in all Member States.

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

- ☒ For native

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

Please explain your answer to MODEL 3 c):

5000 character(s) maximum

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

c) Suitability for native or non-native tokens
Model 3 is better suited for native tokens.

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

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

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

5000 character(s) maximum

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

d) Same ownership model for all types of tokens
No. The same ownership model should not automatically apply to all tokens. Crypto-assets natively issued on-chain and tokenised financial instruments representing off-chain rights do not raise the same legal issues. EU law should therefore allow for differentiated treatment depending on the type of token and the legal structure used.

Please explain your answers for MODEL 3 and provide examples:

5000 character(s) maximum

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

You selected:

MODEL 4: The token is the legal carrier of rights associated with a related (often off-chain) asset. The law

defines tokens as legal objects that do not create new rights, but can –like a “container” –represent various kinds of rights, such as membership rights, ownership, intellectual property rights, usage rights or rights of lien etc. The token would represent the rights stemming from the underlying assets and the law would ensure that the transfer of a token on the ledger legally transfers ownership of the rights stemming from the underlying asset.

MODEL 4 - a) What would be the legal interoperability of any such EU level measure with national private laws of Member States, or at least laws of the Member State that you are familiar with?

5000 character(s) maximum

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

Model 4 is better suited to non-native or representative tokens. Where a token represents rights over an underlying off-chain asset, the law should define the token as the legal carrier of those rights and ensure that transfers on the ledger produce the intended legal effects in relation to the underlying asset.

The choice between Model 3 and Model 4 should depend on whether the token is itself the legally relevant asset or whether it represents rights over an asset constituted elsewhere. Applying a single ownership model to all tokens would be legally unsafe. It could either overstate the legal effect of representative tokens or understate the legal effect of native on-chain assets. EU law should therefore adopt a differentiated but coherent framework, based on the function performed by the token in the relevant legal structure.

a) Legal interoperability with national private laws

A functional EU approach would be more interoperable with national private laws than a fully constitutive and uniform ownership regime. It would preserve national legal structures while ensuring that the legal consequences of DLT recording are recognised across the Union.

MODEL 4 - b) Is it preferable to establish constitutive rules of ownership based on the asset being recorded on chain or functional rules regulating the effects of recording an asset on chain?

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

Please explain your answer to MODEL 4 b):

5000 character(s) maximum

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

b) Constitutive rules or functional rules

Functional rules are preferable. EU law should primarily regulate the legal effects of recording an asset on-chain, rather than attempting to create a single abstract and constitutive concept of ownership for all tokens in all Member States.

MODEL 4 - c) Are the different ownership models better suited for native or non-native tokens?

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

Please explain your answer to MODEL 4 c):

5000 character(s) maximum

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

Model 4 is better suited for non-native tokens, including representative and mirrored structures.

MODEL 4 - d) Can the same ownership model be implemented for all types of tokens (crypto-assets and DLT financial instruments)?

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

MODEL 4 - d) What would need to be different depending on the type of the token?

5000 character(s) maximum

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

d) Same ownership model for all types of tokens
No. The same ownership model should not automatically apply to all tokens. Crypto-assets natively issued on-chain and tokenised financial instruments representing off-chain rights do not raise the same legal issues. EU law should therefore allow for differentiated treatment depending on the type of token and the legal structure used.

Please explain your answers for MODEL 4 and provide examples:

5000 character(s) maximum

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

Question 83. Comparing national laws of Member States, what are the main differences in how national laws governs the issuance, holdings and transfers of tokens? Please explain your answer and provide examples:

5000 character(s) maximum

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

The main differences between Member States concern the legal qualification of tokens, the validity of native on-chain issuance, the legal role of the DLT register, the relationship between DLT and traditional forms of holding, and the treatment of transfers, good faith acquisition, collateral and insolvency.

Most jurisdictions adopt a functional approach and treat a token as a financial instrument when it confers rights equivalent to those of traditional securities. However, there is no harmonised EU definition of a “security token”, and some jurisdictions have created specific domestic categories while others have not.

There are also significant differences regarding the coexistence of DLT and non-DLT representations of the same asset. Some jurisdictions allow parallel structures or conversions between formats, while others favour a stricter approach based on a single authoritative form of representation.

Another major difference concerns the event that legally realises the transfer. In most continental systems, the legally decisive event remains the entry in the relevant register, rather than the mere transfer of a private key.

This is essential for ownership, third-party effects, collateral and insolvency.

Finally, the treatment of intermediaries, custody models, good faith acquisition and the impact of insolvency still vary significantly across Member States. These differences are a major source of legal uncertainty for cross-border tokenised markets.

4.7 Questions on conflicts of law

Financial Collateral Directive (FCD) and Settlement Finality Directive (SFD) entails targeted conflict of law rules, mainly applicable to financial instruments hence broadly relevant for DLT financial instruments, however the current regime leaves a potential gap where the token does not qualify under the scope of FCD and SFD or where existing conflict rules do not easily lend its application to tokens. As noted in the [UNIDROIT Principles on digital assets and private law](#) the usual connecting factors for choice-of-law rules, such as the location of persons, offices, activity, or assets have less of a useful role for DLT financial instruments and crypto-assets and the approach would rather be to identify connecting factors relevant to such instruments and assets.

Question 84. Should EU law introduce a conflict of law rule for tokens?

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

Question 84.1 please explain why the current conflict of law rules applicable in EU are not enough or sufficiently clear in its application to tokens?

5000 character(s) maximum

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

Current EU conflict-of-law rules are not sufficient because they only address limited categories of situations and do not cover all token structures. They do not provide a sufficiently clear and comprehensive solution for determining the law applicable to ownership, transfer, collateral and proprietary effects in relation to tokens, especially outside the existing scope of the Settlement Finality and Financial Collateral frameworks. At the same time, any new EU rule should remain limited to what is strictly necessary. It should not weaken the existing European securities law acquis by replacing well-established principles with overly contractual or technologically unstable connecting factors.

Question 84.2 If the EU would introduce conflict of law rules for proprietary aspects of tokens, what would be the preferred connecting factors?

Rank the below listed connection factors from 1 to 5 (1 being the most relevant connecting factor and 5 the least relevant connection factor).

Connecting factors without a ranking will be considered not relevant:

at most 5 answered row(s)

	1	2	3	4	5
The law of the state specified in the token or in the principles (if any) expressly specified in the token	☐	☐	☐	☐	☐
The law of the state specified in the rules or in the principles of the system on which the token is recorded	☐	☐	☒	☐	☐
The law of the state in which the legal entity operating the DLT-based system on which tokens are recorded	☐	☒	☐	☐	☐
In relation to a token for which there is an issuer, the law of the state where the issuer is established	☐	☐	☐	☒	☐
In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates	☐	☐	☐	☐	☒
In relation to tokens for which there is a provider of the technologies creating or issuing the tokens, the law of the state under whose supervision such technology operates	☐	☐	☐	☐	☐
Where a token shall be registered, the law of the state under whose supervision the register is maintained	☐	☐	☐	☐	☐

The law of the state of the relevant operating authority/administrator (PROPA), meaning a state authority or a body (e.g., a foundation) that takes over the administration of the system onto which the token is registered	☒	☐	☐	☐	☐
The law of the state of the primary residence of the encryption private master keyholder (PREMA), meaning the seat of a body that holds a system-relevant master key, with the help of which coercive transactions can be carried out, for example, based on a court order	☐	☐	☐	☐	☐
Any other?	☐	☐	☐	☐	☐

Please explain your answers to question 84, 84.1 and 84.2 and provide examples.

In answering this question, please consider if the suggested scope of the conflict of law rule in your view is the right one, and whether there are aspects missing:

5000 character(s) maximum

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

The preferred connecting factors should be ranked as follows:

1. The law of the state under whose supervision the register is maintained, where a token must be registered.
2. The law of the state in which the legal entity operating the DLT-based system is established.
3. The law specified in the rules or principles of the system on which the token is recorded, provided that such law is determined on the basis of a clear connecting factor.
4. For tokens with an issuer, the law of the state where the issuer is established.
5. For tokens with an issuer, the law of the state under whose supervision the issuer operates.

The least relevant factors are those based solely on technology providers, system administrators with no direct legal role in the holding structure, master key holders, or a law expressed only in the token itself. These connecting factors appear too unstable, too technical or too detached from the legal reality of holding and transferring rights.

In our view, the correct scope of the conflict-of-law rule should focus on proprietary aspects: entitlement, transfer, collateral, opposability and insolvency-related effects. It should not attempt to regulate all contractual or regulatory aspects of tokens.

The preferred connecting factor should be objective, legally ascertainable and sufficiently stable to produce third-party effects. The rule should avoid purely contractual, purely technical or easily manipulable connecting factors, as those could create forum shopping and undermine legal certainty.

Where the token is recorded in a legally recognised or supervised register, the primary connecting factor should be the law of the state under whose supervision that register is maintained. This is the most objective and legally relevant factor for proprietary effects, including entitlement, transfer, collateral, opposability and insolvency-related effects.

Where there is no such supervised register, the next relevant connecting factor should be the law of the state in which the legal entity operating the DLT-based system is established, provided that such entity has a genuine legal role in the issuance, recording or transfer of the token. For tokens with an identifiable issuer, the law of the state where the issuer is established may serve as a further connecting factor. The law specified in the rules of the system may be relevant only if it is linked to an objective legal connection and not merely chosen contractually.

By contrast, the law expressed only in the token, the residence of a private keyholder, or the location of technology providers should not be primary connecting factors. These elements are too unstable, too technical or too remote from the proprietary relationship to provide sufficient legal certainty.

Question 85. If there are any other issues relating to legal certainty which are not mentioned above, please describe them here:

5000 character(s) maximum

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

Yes.

An additional legal certainty issue concerns the risk of double representation or double existence of the same asset, where traditional and tokenised forms coexist without a sufficiently clear rule on priority, conversion, blocking or legal exclusivity. This risk should be expressly addressed.

Another issue concerns the legal distinction between the register conferring rights and the administration of the means of access to those rights. In DLT environments, legal certainty requires a clearer distinction between the constitutive role of the register and the operational role of intermediaries or administrators managing access, instructions and corporate actions.

A further issue concerns continuity of rights in the event of migration between technical environments, including conversion, bridge mechanisms, or changes in the recording system. Legal certainty requires a clearer framework for such transitions, especially where the tokenised asset is expected to retain continuity of legal identity.

Finally, legal certainty also depends on the ability of tokenised systems to withstand the insolvency of participants or intermediaries. This point remains critical wherever token arrangements operate outside a formally recognised finality framework.

An additional concern is the risk of forum shopping where issuers, platforms or intermediaries are able to select the applicable proprietary law through contractual terms or protocol documentation without a sufficient objective connection. This would be particularly problematic for third-party effects, collateral and insolvency. Any EU conflict-of-law rule should therefore be mandatory for proprietary aspects and should prevail over purely contractual designations where third-party rights are affected.

4.8 Final open question

Question 86. Interested parties that wish to bring other relevant issues, not raised in this consultation, to the Commission's attention, should feel free to communicate them here:

5000 character(s) maximum

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

MiCA would benefit from a clearer functional articulation between (i) legal custody or safekeeping, (ii) operational administration of access means, and (iii) purely technical tools. The same terminology should not be used for materially different situations. Where a provider controls the assets or the means of access on behalf of clients, MiCA should require position-keeping, segregation, restitution arrangements and clear allocation of liability. By contrast, software or technical tools that leave exclusive control with the client should not be treated as custody services. This clarification is also important to ensure consistency with broader EU work on tokenised financial instruments and DLT-based holding models.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data or any information that might identify you in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-review-mica-regulation_en)

Consultation document (https://finance.ec.europa.eu/document/download/62be7015-f066-4fac-b74e-71bacdbcc9f5_en?filename=2026-mica-review-targeted-consultation-document_en.pdf)

Related public consultation (https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/public-consultation-review-mica-regulation_en)

More on crypto-assets (https://finance.ec.europa.eu/digital-finance/crypto-assets_en)

Specific privacy statement (https://finance.ec.europa.eu/document/download/b6bd37fe-89ad-4e9a-9188-efa9743c4e2e_en?filename=2026-mica-review-targeted-specific-privacy-statement_en.pdf)

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