

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

Julian

* Surname

Gretzinger

* Email (this won't be published)

j_gretzinger@hotmail.com

* Age group

☐ < 15

☐ 15 - 29

☒ 30 - 65

☐ > 65

☐ Prefer not to answer

* 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

☐ Dominican
Republic

☐ Lithuania

☐ 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

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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
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
	Guinea-Bissau	Nicaragua	Thailand

British Indian
Ocean Territory

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| ☐ 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 |
| ☐ 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 |

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| ☐ 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 | ☐ Zambia |
| | | Ascension and Tristan da Cunha | |
| ☐ 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

* Please specify your activity field(s) or sector(s)

Consulting

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

The type of respondent that you responded to this consultation and your contribution will be published as received. Your name and your country of origin will not be published. Please do not include any personal data in the contribution itself.

☒ Public

Your name, the type of respondent that you responded to this consultation as, your country of origin and your contribution will be published.

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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.

The MiCA/MiFID boundary should be maintained as a matter of regulatory architecture. MiFID carries prudential, conduct, and market integrity obligations calibrated to investment instruments that MiCA does not replicate, and collapsing the boundary would produce a single framework calibrated to neither. The problem is not that the boundary exists — it is that the boundary is drawn in asset taxonomy terms, and asset taxonomy is not harmonised across member states. The same token can qualify as a financial instrument in Frankfurt and as a MiCA crypto-asset in Tallinn, because MiFID II defines financial instruments through an Annex I Section C list that twelve member states transposed differently. ESMA's own classification guidelines acknowledge this directly.

The solution is not to abolish the boundary but to regulate the service relationship independently of which side of the boundary the underlying asset falls on. Custody is custody whether the underlying is a utility token or a tokenised bond. Execution is execution whether the venue is Frankfurt or Warsaw. The obligation should flow from what the provider does to the client, not from what the underlying asset is called in national law. A service-layer framework dissolves the classification friction without requiring harmonisation of twenty years of divergent

national securities law. The MiCA review should adopt this as the organising principle for MiDA rather than attempting a third round of asset taxonomy harmonisation.

Recent transatlantic developments sharpen the stakes of this architectural choice. On 11 June 2026 the SEC proposed rescinding Regulation NMS Rules 611 and 610(e) — the trade-through and locked/crossed markets provisions — in a release that acknowledges DLT-based tokenisation raises challenges for applying existing equity market structure requirements. Two weeks later, the ECB accepted CSD-issued DLT-native securities as Eurosystem collateral. The two jurisdictions are diverging architecturally: the US is dismantling market structure rules that tokenised trading environments strain, while the EU is absorbing tokenised instruments into existing regulated infrastructure. The service-layer approach recommended above is the legislative complement to the EU's absorption path — it preserves sectoral protections while dissolving classification friction, rather than resolving that friction through deregulation.

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.

The guidelines have reduced uncertainty at the cleaner end of the classification spectrum. Pure utility tokens and straightforward EMTs are now classifiable with reasonable confidence across most member states. The hard cases remain hard, for a structural reason the guidelines cannot resolve: the underlying definition of a transferable security in MiFID Annex I is not harmonised across member states, and ESMA cannot clarify the application of a definition it did not write and cannot amend.

The borderline cases that remain most difficult in practice are: hybrid tokens combining governance rights with economic returns, where the economic return component pulls toward MiFID and the governance component pulls toward MiCA; tokenised fund interests, where the MiCA, MiFID, AIFMD, and UCITS perimeters overlap without a clear hierarchy; assets marketed as NFTs but issued in fungible or semi-fungible series, where the fungibility test is not operationally defined; and synthetic exposures replicating the return of financial instruments without being issued by the instrument's issuer. Each of these requires a policy determination about the organising principle of regulation — not a better classification test. The service-based approach would render most of these borderline questions secondary, since the service obligation attaches regardless of which side of the asset taxonomy line the instrument falls on.

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.

Title II is a creditable first attempt at a disclosure-based regime for crypto-asset offerings. Its structural design — notification rather than prior approval, white paper disclosure, civil liability for inaccuracies, and a retail withdrawal right — reflects sound regulatory architecture. The adequacy ratings below neutral reflect implementation failures rather than design failures.

The white paper framework (Art 6) rates neutral because it produces white papers that are neither comparable across issuers nor readable by retail investors. Each issuer designs its own disclosure format. Supervisory comparison and retail comprehension are both practically impaired. The framework is sound; the output is not.

The update obligation (Art 12) rates neutral because the trigger — significant new factors, material mistakes or inaccuracies — is interpreted narrowly by issuers and difficult for supervisors to monitor proactively. Material changes to vesting schedules, governance structures, and tokenomics parameters that substantially affect token holder economics are routinely not notified. There is no ongoing periodic reporting obligation and no mechanism for token holders to request updated disclosure.

The retail withdrawal right (Art 13) rates neutral because the exemption for assets already admitted to trading practically eliminates the right in most real-world cases. Most issuers list on a secondary venue before or immediately after the subscription period closes. The right exists in the regulation and rarely operates in practice.

Civil liability (Art 15) rates neutral because it is practically limited against non-EU issuers and pseudonymous development teams. The liability standard is correct. Enforcement jurisdiction and asset traceability constraints render it largely unenforceable against the actors who cause the most retail harm.

Conduct obligations (Art 14) rate neutral because the provisions are appropriate in structure but under-enforced in practice. The supervision gap — not the standard — is the problem.

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.

The direction of travel across Title II should be standardisation and enforcement capacity rather than structural redesign. The framework's architecture is sound. Its limitations are comparability and enforcement failures that targeted Level 2 measures can address without reopening the primary law.

The white paper framework (Art 6) should be somewhat strengthened through mandatory machine-readable standardised templates at Level 2 with defined fields for each required disclosure element. This simultaneously reduces drafting costs for issuers and enables automated supervisory comparison and retail screening tools that the current unstructured format does not permit.

The update obligation (Art 12) should be somewhat strengthened through two additions: a quantitative materiality definition specifying that changes affecting defined parameters above defined thresholds are per se material and require notification within five business days; and a mandatory quarterly disclosure obligation for issuers of tokens in active circulation above a defined market capitalisation threshold, covering treasury movements, vesting schedule compliance, governance changes, and material protocol changes.

Civil liability (Art 15) should be somewhat strengthened through extension to CASPs that list tokens with materially inaccurate white papers. This creates an incentive for listing due diligence at the point where it can most practically be exercised — by an identifiable, EU-licensed entity with legal accountability — rather than relying exclusively on liability against pseudonymous issuer teams.

Conduct obligations (Art 14) should be somewhat strengthened through clearer supervisory expectations on systems and security arrangements, particularly regarding key management and smart contract audit requirements for issuers who self-custody token treasury assets.

The overall balance should move somewhat toward stronger investor protection through standardisation and enforcement capacity. The ex ante notification model and the exemption thresholds should remain unchanged — weakening these would reduce innovation without commensurate protection benefit.

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.

The two most serious concerns are regulatory arbitrage (5) and cross-border third-country enforcement (5). These are structurally connected: the reason enforcement against non-EU issuers is practically non-existent is the same reason issuers are relocating — the EU regulatory perimeter applies to EU-established entities but cannot reach non-EU actors distributing to EU users through digital channels. The GENIUS Act in the US, permissive frameworks in UAE and Singapore, and Liechtenstein's relatively light TVTG regime have collectively attracted issuers and market infrastructure that the EU could not retain. MiDA should treat issuer location competition as a design constraint — not by weakening standards but by making EU authorisation commercially attractive rather than merely legally required.

Regulatory arbitrage is rated 5 because it is not a marginal phenomenon. It is the dominant strategic response to MiCA among sophisticated market participants. The 30 December 2024 full application date has already produced measurable relocation of both issuers and market activity to non-EU jurisdictions.

Cross-border third-country enforcement is rated 5 because it is practically non-existent. The tools available — geoblocking requests, app store removal, IBAN restrictions — have demonstrated limited effectiveness against technically sophisticated users with access to VPNs and self-custody infrastructure. Making EU-licensed alternatives commercially competitive is more effective than attempting to restrict access to non-licensed alternatives.

Post-issuance governance accountability is rated 4 as the third most significant structural gap. There is no ongoing periodic reporting obligation and no mechanism for token holders to request updated disclosure after issuance. The gap between a token's initial white paper and its current state is, in many documented cases, larger than any change the Art 12 trigger was designed to catch.

Misaligned incentives are rated 4 because insider vesting schedule disclosure is insufficiently specific under current Title II requirements. A mandatory minimum 12-month lock-up for founder and seed-round tokens, with on-chain enforcement and white paper disclosure of any deviation, would address the most common retail harm pattern — coordinated insider selling into retail-driven price appreciation immediately following a token launch.

Developments since this consultation opened confirm the asymmetry. On 18 August 2026, the US Treasury proposed rules implementing Section 3 of the GENIUS Act with explicit extraterritorial effect: the prohibition attaches to any offer or sale of a payment stablecoin to a person located in the United States, with a safe harbour for digital asset service providers that maintain policies to avoid US-located persons and do not target them with solicitation. The US is building precisely the digital-perimeter mechanism whose absence in MiCA this answer identifies — obligations that follow the user's location rather than the issuer's place of establishment. Absent an equivalent user-location perimeter in MiDA, the asymmetry inverts: non-US issuers reaching US users will face enforceable prohibitions, while non-EU issuers reaching EU users continue to face none.

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.

Algorithmic and gamified marketing tactics — artificial scarcity signals, countdown timers, social proof manipulation — are documented drivers of retail harm in token launches. Restricting these at the platform level is more effective than per-issuer obligations, since enforcement targets identifiable CASPs and distribution platforms rather than pseudonymous issuer teams operating from outside the EU regulatory perimeter.

Mandatory lock-up periods and standardised vesting schedule disclosure are the single most effective structural protection against the misaligned incentive problem identified in Q4. The current Art 6 white paper requirement is insufficiently specific — issuers disclose vesting schedules in incomparable formats with no minimum lock-up obligation. A mandatory minimum 12-month lock-up for founder and pre-seed allocations, with on-chain enforcement of disclosed vesting schedules and mandatory white paper disclosure of any deviation from standard terms, would materially reduce the most common documented retail harm pattern.

Additional measures not listed in the consultation but warranting consideration: mandatory on-chain lock-up enforcement for disclosed vesting schedules — the disclosure obligation without on-chain enforcement is unenforceable against pseudonymous teams and provides false assurance to retail investors; mandatory post-issuance quarterly reporting on token treasury movements for issuers above a defined market capitalisation threshold; and extension of Art 15 civil liability to CASPs that list tokens with materially inaccurate white papers, creating a commercial incentive for listing due diligence at the point where it can most practically be exercised.

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.

Three specific measures would materially reduce administrative burden without reducing investor protection.

First, machine-readable standardised white paper templates with defined fields for each required disclosure element. This simultaneously reduces drafting costs for issuers — who currently must design their own disclosure architecture — and enables automated supervisory comparison and investor screening tools that the current unstructured format does not permit. The burden reduction and the investor protection improvement are the same measure.

Second, a single-passport white paper recognition mechanism: a white paper reviewed and found compliant by the home member state NCA should be passportable across all member states without re-notification. The current ambiguity about whether NCA notification in one jurisdiction covers distribution across others creates duplicative compliance cost for pan-European offerings without producing any additional supervisory benefit.

Third, a quantitative materiality safe harbour for the Art 12 update obligation: changes affecting less than a defined percentage threshold of disclosed tokenomics parameters should be exempt from the immediate

update obligation and disclosed instead in a periodic report. This reduces the monitoring overhead of continuous compliance on small issuers while maintaining the update obligation for genuinely material changes.

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.

In order of practical difficulty: tokenised fund interests, where the MiCA, MiFID, AIFMD, and UCITS perimeters overlap without a clear hierarchy and the same instrument can fall under multiple frameworks depending on structuring decisions made for unrelated commercial reasons; hybrid tokens combining governance rights with economic returns, where the economic return component pulls toward MiFID and the governance component toward MiCA; assets marketed as NFTs but issued in fungible or semi-fungible series, where the fungibility test is not operationally defined and series issuance is used as a deliberate structuring device to avoid classification; synthetic exposures replicating the return of financial instruments without being issued by the instrument's issuer; and governance tokens with embedded treasury access rights, where the right to direct treasury spending may constitute a financial instrument right depending on national law.

The common feature of all these cases is that the classification difficulty is structural — it arises from the interaction of multiple regulatory perimeters, not from ambiguity within any single one. A service-based organising principle would render most of these questions secondary: the service obligation attaches regardless of which side of the asset taxonomy line the instrument falls on. Classification continues to matter for determining which additional sectoral rules apply. It ceases to matter for determining whether service obligations apply at all.

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.

The Art 12 update obligation is triggered by significant new factors, material mistakes, or inaccuracies — a threshold that issuers interpret narrowly and supervisors have limited capacity to monitor proactively. Changes

to vesting schedules, governance structures, tokenomics parameters, protocol upgrades, and control rights that materially affect the economic position of token holders are routinely not notified under current practice. There is no ongoing periodic reporting obligation and no mechanism for token holders to request updated disclosure.

MiDA should introduce two complementary obligations. First, a mandatory quarterly disclosure for issuers of tokens in active circulation above a defined market capitalisation threshold, covering treasury movements, vesting schedule compliance, governance changes, and material protocol changes in machine-readable standardised format. Second, a quantitative materiality definition for the Art 12 trigger, specifying that changes affecting defined parameters above defined thresholds are per se material and require notification within five business days. The current qualitative trigger produces inconsistent application and systematically insufficient disclosure in precisely the cases — post-launch governance changes, vesting accelerations, protocol forks — where investors most need updated information.

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.

The retail payment use case faces structural competition from instant payment rails — SEPA Instant and its national equivalents — that are cheaper, better regulated for retail purposes, and do not require users to manage digital wallet infrastructure. Stablecoins are unlikely to displace these instruments for domestic EU retail transactions in any realistic five-to-ten year scenario.

The wholesale settlement use case is the strongest near-term application and deserves a stronger policy response than the current framework provides. DVP atomicity — the simultaneous exchange of tokenised securities against a programmable cash leg — requires an instrument that central bank money on legacy rails cannot provide. Euro-denominated stablecoins are the natural candidate for this role. The interest prohibition has prevented a commercially competitive euro-denominated instrument from emerging. Dollar-denominated alternatives are filling the gap instead.

The cross-border payment use case is where stablecoins have demonstrated the clearest genuine utility that existing rails do not provide: 24/7 availability, programmable settlement conditions, and reach into corridors where SEPA and correspondent banking are absent or prohibitively expensive. This use case is well-established and will grow regardless of EU regulatory decisions. The policy question is whether it will be served by EU-licensed instruments with MiCA-equivalent protections or by non-EU alternatives without them.

The core infrastructure role for tokenised financial markets is the use case with the greatest long-term structural significance. The settlement layer for tokenised instruments requires a programmable atomic cash leg. The digital euro is the long-term sovereign answer. Stablecoins are the transitional instrument that will determine whether the settlement layer operates in euros or dollars while the digital euro is built. The interest prohibition has made the euro option structurally uncompetitive. Lifting it — with appropriate calibration — is the single most impactful policy change available to the Commission in this review.

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.

The use cases where stablecoins offer the clearest and most significant benefit for EU users — cross-border payments, wholesale settlement, tokenised securities settlement, and DeFi liquidity provision — are precisely the use cases that the current MiCA framework has failed to enable with euro-denominated instruments. The interest prohibition removed the commercial incentive for euro EMT issuers to compete with dollar-denominated alternatives in those use cases. The result is that the most beneficial applications are being served by USDT and USDC — instruments issued outside EU supervisory oversight, held by EU users without MiCA-equivalent reserve protections or statutory redemption rights.

The intra-EU and retail payment use cases rate neutral because the marginal advantage of stablecoins over existing instant payment infrastructure for domestic EU transactions is not established. Merchant acceptance infrastructure, not instrument design, is the binding constraint for retail P2B. For P2P, SEPA Instant provides equivalent speed and lower complexity for most users.

The policy implication is direct: the review should prioritise regulatory changes that make euro-denominated stablecoins commercially competitive in the high-value use cases — lifting the interest prohibition with appropriate calibration, recognising UCITS LVNAV money market funds as a permitted reserve asset category, and streamlining the ART authorisation process — rather than calibrating oversight of a market that has already voted with its treasury allocations in favour of non-EU instruments.

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.

The reserve-linked component — 2% of average reserve assets — is the most conceptually sound element of the capital framework and rates highest for relevance. It directly ties capital requirements to the scale of the liability being managed. The calibration at 2% is broadly appropriate for high-quality reserve assets but does not reflect asset quality variation — a reserve held entirely in central bank deposits poses materially lower risk than one held in corporate paper or UCITS funds, and the capital requirement should reflect that difference through risk-weighting.

The minimum €350,000 floor is structurally appropriate as a baseline but is low relative to operational risk for an issuer managing significant reserves. It should scale with reserve size above a defined threshold rather than remaining flat.

The overhead-linked component is a rough proxy for operational risk that is appropriate as a floor but not as the primary calibration mechanism. Fixed overheads do not correlate reliably with the risks specific to stablecoin issuance.

The significance uplift is correct in principle — a token with 50 million holders poses different systemic risk than one at the 10 million threshold — but the calibration should be more granular, distinguishing by reserve asset quality and geographic distribution of holders rather than applying a uniform uplift.

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					
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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.

The absence of any licensed ART after two years of MiCA operation is not primarily a demand-side phenomenon. There is genuine market interest in multi-currency pegged instruments — the growth of dollar-denominated stablecoins demonstrates that demand for non-single-currency digital settlement instruments exists and is substantial. The question is whether issuers have concluded that MiCA's ART compliance structure is worth the cost relative to the addressable market.

They have not. The ART licensing regime combines reserve requirements, governance obligations, own funds requirements, and the interest prohibition into a compliance cost that exceeds the commercial opportunity for most potential issuers at current market scale. The 60% deposit requirement is particularly burdensome — holding 60% of a multi-billion reserve in bank deposits concentrates credit risk in the deposit-taking institutions in ways that are arguably more systemic than the risk being mitigated. The interest prohibition removes the primary commercial incentive for issuing an ART rather than a simpler EMT. The result is that no issuer has concluded that the compliance cost is justified by the commercial opportunity under current rules.

The licensing and regulatory requirements are rated 5 as a factor because they are the decisive constraint. Recalibrating the deposit composition rules, recognising UCITS LVNAV funds as a permitted reserve asset category, and lifting the interest prohibition with appropriate calibration would change the commercial calculus materially. The market interest exists. The regulatory structure has made acting on it economically irrational.

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.

The primary purpose of ARTs from a consumer and investor perspective is means of exchange and payment, not investment.

The ART structure — multi-currency or commodity-pegged — is most useful as a settlement instrument for cross-border transactions and as a store of value in markets where the reference basket is more stable than any single constituent currency. The investment use case is secondary because ARTs are not designed to generate return — they are designed to track a basket. Where an investor wants return, they will hold the underlying assets directly or through a fund structure that provides that exposure more efficiently.

The primary demand for ARTs is from users who want a stable, cross-border-capable settlement instrument that is not denominated in a single currency and is not subject to the volatility of any single sovereign monetary policy. This is a payment and treasury management use case. Corporate treasuries managing multi-currency exposures, institutional investors settling cross-border tokenised securities transactions, and market participants seeking a stable on-chain unit of account that is not dollar-denominated are the natural ART user base. None of these use cases is primarily an investment use case.

The regulatory implication is that the ART framework should be calibrated for a payment and settlement instrument, not for an investment product. The governance, disclosure, and investor protection requirements appropriate for an investment product are disproportionate for a settlement instrument. The interest prohibition, conversely, is less relevant for a settlement instrument than for a yield-seeking instrument — which further supports the view that the primary use case is transactional rather than investment-driven.

2.3 Liquidity and reserve requirements

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

The reserve obligation itself is appropriate and should not be relaxed — it is the core structural protection for ART holders and the foundation of the stablecoin value proposition. The calibration concerns are specific to composition and maturity, not to the existence of the reserve requirement.

The maturity restrictions are calibrated for EMTs, which have immediate par redemption obligations, and are too conservative for ARTs, which redeem at market value. A market-value redemption obligation supports a longer-duration reserve profile than the current rules permit. Relaxing the maturity constraints for non-significant ARTs would allow issuers to hold higher-quality, slightly longer-duration assets without increasing redemption risk.

The deposit composition requirements are the most significant calibration problem in the ART reserve framework. The 30% deposit floor should be maintained as a genuine liquidity anchor — bank deposits are immediately redeemable and provide a reliable buffer for sudden redemption requests. The 60% cap on non-deposit assets should be recalibrated to permit UCITS LVNAV money market fund holdings above the current threshold. A UCITS LVNAV fund invested in short-duration euro-denominated sovereign and supranational paper is not a deposit substitute for regulatory risk purposes. It is a regulated, transparent, daily-liquidity instrument with a risk profile that supervisors understand and have approved for retail money market purposes for decades. Treating UCITS LVNAV holdings as equivalent to unregulated commercial paper for the purposes of the deposit cap is a category error that the review should correct.

For significant ARTs, enhanced liquidity management and stress testing requirements should be somewhat strengthened — stress testing should be aligned with the specific liquidity profile of the reference basket and results reported to the competent authority on a defined schedule.

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.

The reserve obligation is appropriate and should not be relaxed. It is the core structural protection for EMT holders and must remain as the foundation of the framework.

Segregation requirements should be somewhat strengthened for both significant and non-significant EMTs. The current provisions leave residual uncertainty about the treatment of reserve assets in issuer insolvency that institutional token holders cannot underwrite. Explicit statutory priority for token holders over reserve assets in insolvency — equivalent to the protection provided to e-money holders under the EMD2 safeguarding regime — should be specified in primary law rather than left to national insolvency rules that vary across member states.

The deposit composition requirements are the primary calibration problem, as argued in relation to Q14. The 30% deposit floor should be maintained as a liquidity anchor. The 60% cap on non-deposit assets should be recalibrated to recognise UCITS LVNAV money market funds as a distinct permitted reserve asset category. A UCITS LVNAV fund invested in short-duration euro-denominated sovereign and supranational paper is not a deposit substitute for regulatory risk purposes. It is a regulated, transparent, daily-liquidity instrument subject to MMFR oversight. Treating it as equivalent to unregulated commercial paper for the purposes of the deposit cap produces the precise competitive distortion the reserve requirements were designed to prevent — by making euro EMT reserve portfolios structurally inferior to those available to non-EU issuers facing no equivalent constraint.

The 1.5% per-bank concentration limit is appropriate in principle. At scale it creates operational complexity — a large EMT issuer holding 30% of a multi-billion reserve in bank deposits across many institutions requires significant treasury infrastructure to manage. Level 2 guidance on the practical application of the limit at scale would reduce compliance costs without changing the standard.

For significant EMTs, enhanced liquidity management and intraday liquidity monitoring should be somewhat strengthened — real-time reserve reporting and intraday liquidity position monitoring should be mandatory requirements, not merely supervisory expectations.

Recent modelling by the BIS (Working Paper 1355, 2025) provides theoretical support for the reserve composition recalibration proposed above. The BIS model demonstrates that hard liquidity ratio minimums — thresholds that cannot be drawn below without regulatory breach — increase default probability relative to usable buffers with market discipline, because they force immediate bond sales on any redemption event rather than allowing the cash buffer to absorb the shock first. MiCA's 30% bank deposit floor, which cannot be drawn below without supervisory breach, has precisely this hard-threshold property at the issuer level. The BIS model was calibrated to USDC under zero regulation — its optimal parameters (liquidity ratio 5-6%, capital ratio 0.125%) are an order of magnitude below MiCA's enacted requirements, and the welfare implications of MiCA's actual parameter space have not been modelled. The Commission should commission modelling at MiCA-realistic parameters before concluding that the current deposit floor is appropriately calibrated. The preliminary evidence from the BIS framework suggests the floor may already be in the perverse range — and that the correct policy response is to make the buffer usable, not to raise it further.

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.

Credit institutions issuing EMTs should be subject to reserve maintenance obligations equivalent to those applying to non-bank EMT issuers, with the reserve ring-fenced within the credit institution’s balance sheet as a matter of insolvency priority. The current exemption creates a structural asymmetry: non-bank EMT issuers must segregate reserves fully, while bank EMT issuers do not. The argument for the exemption — that bank deposits are already regulated — does not address the token holder’s position in bank insolvency.

A token holder’s claim against a bank EMT is not a deposit claim. It is an unsecured claim against the bank’s general estate unless segregation is required. The BRRD resolution hierarchy does not protect EMT holders as a class — they rank as unsecured creditors behind covered deposits, secured creditors, and preferred creditors. In a bank resolution scenario, EMT holders face the prospect of bail-in or loss without the deposit guarantee scheme protection that ordinary depositors receive.

The solution is not to require issuance through a legally separate entity — that would impose disproportionate structural costs on bank EMT issuers and would replicate the non-bank issuer model without the regulatory efficiency gains that bank issuance should provide. The correct approach is to require that reserve assets backing EMTs issued by credit institutions are identified, ring-fenced on the balance sheet, and treated as priority claims for token holders in any resolution or insolvency proceeding. This closes the protection gap without requiring structural separation.

2.4 Criteria for determining significance

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

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

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

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

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

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

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

	1	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)	☐	☐	☒	☐	☐	☐

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.

The quantitative thresholds are broadly appropriate as systemic relevance indicators and should be kept as is for now. Two calibration observations worth noting in the narrative.

First, the holder count threshold should distinguish between EU-resident holders and global holders. A token with 10 million holders globally but 500,000 in the EU poses materially different systemic risk to EU financial stability than one with 10 million EU-resident holders. The significance determination should be anchored to EU exposure, not global scale.

Second, the €500m transaction value threshold should be indexed to inflation and reviewed every three years. At current market growth rates, thresholds set in nominal terms will become less meaningful as markets develop. An automatic indexation mechanism — as used in prospectus regulation thresholds — would remove the need for legislative amendment each time the market outgrows a fixed number.

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

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

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

5000 character(s) maximum

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

The qualitative criteria should be extended to capture two additional dimensions that the current framework does not adequately address.

First, infrastructure embeddedness — whether the token is accepted as collateral by EU CCPs, central banks, or DLT settlement systems operating under the DLT Pilot Regime or MiDA. A token that becomes embedded in settlement infrastructure creates systemic risk that the quantitative criteria do not capture at sub-threshold scale. A token accepted as margin collateral by a systemically important CCP at €2 billion outstanding is more systemically significant than a retail payment token at €6 billion with no infrastructure connections.

Second, reserve asset concentration — where a significant portion of a token's reserve assets are held with a single counterparty or in a single asset class, the systemic risk from reserve stress is materially higher than where reserves are diversified. A token with €3 billion in reserves held 90% in a single bank deposit is more vulnerable to a sudden stress event than one with the same reserves diversified across five institutions and three asset classes. Reserve concentration should be a qualitative significance trigger independent of the quantitative thresholds, assessed as part of the annual supervisory review.

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

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

Please specify which criteria or metrics and explain why:

5000 character(s) maximum

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

Two additional criteria should be added.

First, infrastructure embeddedness as a standalone metric — whether the token is accepted as collateral by EU CCPs, used as a settlement asset by EU CSDs or DLT settlement systems, or held as a reserve asset by other licensed EMT or ART issuers. Tokens embedded in the settlement and collateral infrastructure of EU financial markets create second-order systemic risk that the current holder count and market capitalisation thresholds do not capture. A token at €3 billion outstanding that is accepted as CCP margin collateral by three systemically important clearing houses is more significant than a retail payment token at €8 billion with no infrastructure connections.

Second, reserve asset concentration as a standalone metric — where a defined percentage of reserve assets is held with a single counterparty, in a single asset class, or in a single jurisdiction, the systemic risk from reserve stress is materially higher than where reserves are diversified. The current framework assesses reserve composition for compliance purposes but does not use concentration as a significance trigger. A token whose reserves are 80% concentrated in a single institution should trigger enhanced supervisory attention regardless of whether it meets the quantitative thresholds, because a stress event at that institution would produce an immediate and severe redemption crisis.

2.5 Interest payment

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

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

a) for EMTs:

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

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

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

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

5000 character(s) maximum

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

The interest prohibition on e-money tokens was designed to protect euro monetary sovereignty by preventing yield-bearing euro stablecoins from competing with bank deposits. The mechanism has not worked as intended. Euro stablecoins have lost ground, not gained it. The prohibition did not prevent competition from dollar-denominated stablecoins — it prevented the creation of a euro-denominated alternative that could have competed with them.

Tether's estimated 2024 net profit of approximately \$13 billion was drawn almost entirely from interest on US Treasury reserves backing USDT — interest that no token holder receives. The prohibition that was designed to protect the euro created the conditions under which an unlicensed dollar instrument became the dominant on-chain settlement currency in European markets. The causal chain is direct and the Commission should acknowledge it explicitly in the review.

For EMTs: permit yield pass-through calibrated to the ECB deposit facility rate minus a spread sufficient to prevent direct competition with bank deposits. The spread should be set by the ECB in consultation with EBA and reviewed annually. A minimum circulation threshold should apply — yield-bearing EMTs below the threshold remain subject to the prohibition, removing the systemic risk concern for small instruments while enabling competitive euro EMTs at scale.

b) for ARTs:

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

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

5000 character(s) maximum

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

The interest prohibition applies to ARTs on the same logic as EMTs — preventing stablecoin issuers from offering returns that compete with bank deposits. For ARTs the rationale is even weaker than for EMTs. An ART is not denominated in a single currency and is not designed as a deposit substitute. It is a multi-currency or commodity-pegged settlement instrument whose reserve is explicitly held on behalf of token holders.

Prohibiting ART holders from receiving any portion of the return generated by assets held on their behalf — while those same assets generate returns that accrue entirely to the issuer — creates a structural misalignment of incentives that the regulation elsewhere seeks to prevent. The economic rationale for this prohibition has not been clearly established and should not be carried forward into MiDA without explicit justification.

For ARTs: permit yield or interest-equivalent distributions from reserve portfolio returns above a defined floor, subject to the same diversification and risk management requirements that apply to the reserve itself. The distribution should be capped at the net reserve return after deducting issuer operational costs and the required capital buffer, preventing issuers from using yield distributions to compete with bank deposits while removing the blanket prohibition that makes ART issuance commercially irrational.

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.

No direct operational experience to report as an individual respondent. From an advisory perspective working with licensed institutions across the EEA, the primary practical friction in EMT redemption processing is not the legal right itself but the KYC and AML chain — particularly for tokens held in self-custodial wallets, where the redemption request requires the issuer to perform full onboarding of a holder who may never have had a direct relationship with the issuer.

The consultation should consider whether MiDA can designate licensed intermediaries as the KYC and redemption processing layer for self-custodial holders rather than requiring issuers to onboard each holder individually at the point of redemption. Maintaining the KYC relationship at the intermediary layer rather than the issuer layer would remove the primary operational friction in self-custodial redemption without reducing the AML standard applied to the transaction.

A secondary friction reported in practice is timing — the absence of specified maximum processing times creates uncertainty for holders seeking to redeem in stressed conditions. A maximum 48-hour processing time for standard redemptions, with defined exceptions for AML and KYC verification requirements, should be specified in Level 2.

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.

The asymmetry between normal and stressed behaviour reflects the correct design logic for the EMT redemption framework.

In normal market conditions, secondary market liquidity is available at or near par. Selling or exchanging through a broker or trading venue is faster, operationally simpler, and does not require direct engagement with the issuer's redemption process. The statutory redemption right is not the instrument of first resort when the market is functioning — it is the backstop.

In stressed market conditions, secondary market prices will discount below par as liquidity deteriorates and counterparties price in uncertainty about the issuer's reserve adequacy. At that point the statutory par redemption right becomes the economically rational choice — it guarantees par value where the secondary market no longer does. The redemption right is most valuable precisely when it is hardest to process at scale.

This asymmetry is not a design flaw. It is the correct relationship between secondary market trading and statutory redemption — analogous to the relationship between secondary trading and open-ended fund redemption windows. The policy implication is that the statutory redemption right must be robust and unconditional in stressed conditions, because that is when it will be exercised at scale and when its operational credibility matters most. Weakening redemption rights in stress scenarios — as some proposals in Q38 suggest — would undermine the instrument's value precisely when that value is highest.

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.

The permanent right of redemption is the structural foundation of the stablecoin value proposition and must not be weakened. Any dilution of the unconditional par redemption right for EMTs would undermine the instrument's credibility as a stable store of value — particularly in the stressed conditions where the right is most needed and most exercised.

Timing should be strengthened through a specified maximum processing time for standard redemptions — 48 hours is a defensible standard, with defined exceptions for AML and KYC verification requirements that cannot be completed within that window. The current framework does not specify maximum processing times with sufficient precision, creating uncertainty for holders in stressed conditions.

Redemption policy transparency should be strengthened through mandatory standardised machine-readable disclosure of redemption procedures, processing times, KYC requirements, and any conditions that may delay or restrict redemption. Current disclosure is not comparable across issuers and does not give holders sufficient information to assess the practical accessibility of their redemption right before they need to exercise it.

Supervisory intervention powers should be strengthened — ESMA should have direct power to trigger redemption plan execution for significant EMTs where the issuer fails to act, rather than relying on NCA intervention with variable capacity and speed across member states. The current framework requires NCA action, which introduces both delay and inconsistency in the member states where supervisory capacity is weakest and where the need for rapid intervention is most likely to arise.

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

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

	Weaken	Keep as is	Strengthen	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.

The plan requirements exist on paper but the testing and rehearsal obligations are insufficiently specified for both ARTs and EMTs. A recovery or redemption plan that has never been stress-tested is not a plan — it is a document. Operational readiness to execute at speed, not plan existence, should be the supervisory standard.

For ARTs, both recovery and redemption plans should be subject to annual stress simulation with results reported to the competent authority. The simulation should test the specific scenario the plan is designed for — sudden large-scale redemption requests — rather than generic operational resilience scenarios. The results should include time-to-execution metrics and identify any dependencies on third-party infrastructure or counterparty cooperation that could delay execution.

For significant EMTs, recovery plan requirements should be aligned with DORA operational resilience obligations and subject to the same annual testing and reporting requirements proposed for ARTs. For non-significant EMTs, the current recovery plan requirements are broadly appropriate — the proportionality principle supports a lighter touch for smaller instruments.

For EMT redemption plans, the strengthening requirement applies across both significant and non-significant categories. The redemption plan is the instrument that protects token holders in the scenario where the issuer cannot meet redemption requests from current reserves. Its operational credibility — not just its existence — should be verified by supervisors on a defined schedule.

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.

Access to central bank deposit accounts is the single most effective measure for removing credit risk from EMT reserves. A reserve held at the central bank carries no counterparty risk and is immediately available for redemption. The ECB should extend access to the deposit facility for licensed EMT issuers above a defined reserve threshold, on terms equivalent to those applicable to credit institutions. This measure alone would resolve the most significant structural vulnerability in the current EMT reserve framework — concentration of reserve assets in commercial bank deposits that are themselves subject to credit risk.

Statutory ring-fencing of reserve assets with explicit priority claims for token holders in insolvency is a foundational protection that MiDA must provide. The current framework leaves EMT holders exposed to issuer insolvency as unsecured creditors in jurisdictions where national insolvency law does not provide specific protection. Explicit EU-level statutory priority — reserve assets are held for the exclusive benefit of token holders and are not available to general creditors in any insolvency or resolution proceeding — is the correct standard.

A dedicated resolution regime for EMIs issuing EMTs is the correct long-term architecture but is complex to design and should be developed in parallel with the BRRD review rather than as a standalone MiDA provision. The interaction between EMT redemption obligations, reserve asset ring-fencing, and BRRD bail-in powers requires careful sequencing.

Emergency liquidity support rates moderately appropriate because access to ECB deposit facilities partially addresses the liquidity need without the moral hazard implications of a full LOLR facility. A full LOLR for EMT issuers would create incentives for excessive reserve risk-taking that the current framework is specifically designed to prevent.

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.

The deposit floor provides a genuine liquidity anchor — bank deposits are immediately redeemable and credit-risk-managed through deposit guarantee schemes up to the covered deposit limit. Maintaining a minimum deposit component ensures that a defined portion of the reserve is available for immediate redemption without market execution risk.

The concern is concentration. A large EMT issuer holding 30% of a multi-billion reserve in bank deposits across multiple institutions — subject to the 1.5% per-bank concentration cap — requires significant treasury infrastructure to manage and creates aggregate credit exposure to the banking sector that is difficult to diversify away at scale. The deposit guarantee scheme provides protection only up to €100,000 per institution, which is immaterial relative to the reserve sizes of any significant EMT issuer. Above that threshold, the deposit is an unsecured claim against the bank.

The recalibration proposed in Q15 addresses this directly: maintain the 30% deposit floor as a liquidity buffer while recognising UCITS LVNAV money market funds as a permitted category for the remainder of the non-deposit allocation. This reduces banking sector concentration risk while maintaining the immediate liquidity anchor that the deposit floor provides. The 60% ceiling on non-deposit assets should be recalibrated accordingly, with UCITS LVNAV holdings subject to their own diversification requirements under the MMFR rather than being treated as a residual category subject to the deposit cap logic.

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.

The principal additional benefit of global stablecoins relative to EU-only stablecoins is network scale — a globally circulating instrument has deeper liquidity, lower transaction costs, and wider acceptance than a regionally confined one. The principal additional risk is reserve management across jurisdictions, which the multi-issuance questions below address.

The use cases where global scale adds the most value are cross-border payments, DeFi liquidity provision, and settlement of tokenised financial instruments — all of which benefit directly from the network effects of global circulation. A euro-denominated global stablecoin issued under MiCA by a licensed EU institution, with reserves meeting EU standards and statutory redemption rights for EU holders, would extend the reach of the euro into markets currently served exclusively by dollar-denominated instruments. The interest prohibition has prevented this instrument from existing. Lifting it is the precondition for the euro participating meaningfully in the global stablecoin market rather than ceding it entirely to non-EU issuers.

The intra-EU and retail P2P use cases rate low because existing EU payment infrastructure — SEPA Instant, Wero — serves these use cases adequately without the additional complexity of stablecoin infrastructure. Global scale adds no meaningful benefit for domestic EU transactions where the counterparty is also EU-based and the settlement currency is euro.

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.

EU-based licensed issuers provide the regulatory protections — reserve segregation, redemption rights, supervisory oversight, and MiCA compliance — that non-EU issuers do not. The market outcome where EU users access global stablecoins through non-EU issuers is the worst possible outcome from both a consumer protection and a monetary sovereignty perspective. EU users holding USDT or USDC issued by non-EU entities have no MiCA-equivalent reserve protections, no statutory redemption rights enforceable in EU courts, and no supervisory backstop. The importance of EU-based licensed issuers is therefore not merely regulatory preference — it is the difference between meaningful consumer protection and none.

EU-based licensed CASPs are the distribution and access layer that makes EU-issued stablecoins practically accessible to EU users. CASP intermediation provides the KYC, AML, and investor protection layer that self-custody does not. Even where a user ultimately self-custodies their tokens, the on-ramp through a licensed CASP ensures that the initial acquisition is subject to EU regulatory standards. The question of whether EU users can access non-EU stablecoins through EU-licensed CASPs is distinct from whether non-EU stablecoins should be admitted to EU markets — CASPs should be permitted to offer admitted stablecoins regardless of issuer location, subject to the reserve and redemption standards that MiCA requires for EU market access.

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.

The most significant risk in the multi-issuance model is home jurisdiction prudential inadequacy — rated 5. Where a globally issuing stablecoin operates from a jurisdiction with no meaningful prudential requirements, the EU holder's position depends entirely on the MiCA-licensed entity's reserve ring-fencing. If the global issuer faces stress in its home jurisdiction — whether from regulatory action, market stress, or operational failure — the EU entity's reserve isolation is the only protection available to EU holders. That isolation is only as strong as the legal enforceability of the ring-fencing arrangement across jurisdictions, which cannot be guaranteed in all scenarios.

Run risk and reserve depletion rate 4. Cross-border reserve migration during stress is a real and structurally plausible scenario — tokens issued in multiple jurisdictions under a single brand can migrate rapidly to the jurisdiction offering the strongest redemption protections, creating sudden redemption pressure on the EU entity that its reserves may not be calibrated to absorb.

Reserve transfer restrictions rate 4. Third-country capital controls or emergency measures could prevent reserve rebalancing at the moment it is most needed. The 2022 Russian sanctions demonstrated how rapidly cross-border asset transfers can be blocked by regulatory or political action. This risk cannot be fully mitigated through MiDA alone — it requires bilateral agreements or equivalence arrangements with the jurisdictions where reserves are most likely to be held.

Supervisory monitoring challenges rate 4. The inability to track EU holdings in self-custodial wallets with precision is a fundamental limitation. Chain analytics and CASP reporting are the practical tools available but cannot provide complete coverage.

Regulatory arbitrage through token fungibility rates 3 — real but partially addressed by the EU establishment requirement and less significant as a systemic risk than the reserve and run risk concerns.

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.

Prohibiting multi-issuance models would be both practically unenforceable and economically counterproductive. Tokens are borderless by design — a prohibition on the EU leg of a multi-issuance model would simply redirect EU users toward non-EU access points that MiCA cannot reach. The tools available to enforce a prohibition — geoblocking, app store removal, IBAN restrictions — have demonstrated limited effectiveness against technically sophisticated users with access to VPNs and self-custody infrastructure. A prohibition would remove the EU regulatory perimeter from the transaction without removing the transaction.

The correct approach is to ensure that the EU leg of any multi-issuance model provides full MiCA protections to EU holders — reserve ring-fencing, statutory redemption rights, supervisory oversight — regardless of what happens in other jurisdictions where the same token circulates. The multi-issuance model is not inherently dangerous. The danger is in multi-issuance models where the EU entity's reserve isolation is insufficient or where home jurisdiction standards are materially below MiCA standards. Both of those risks are addressed through the reserve requirements, the significance criteria, and the equivalence regime proposed in Q40 — not through prohibition of the model itself.

Permitting multi-issuance while requiring EU-standard protections for the EU leg is also the only approach consistent with the EU's broader regulatory philosophy. The EU does not prohibit cross-border financial services — it regulates the EU perimeter of those services. The same logic applies here.

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.

The approach is justified on monetary sovereignty grounds. A euro-denominated token issued outside the EU MiCA perimeter but circulating freely to EU holders is a euro-denominated liability issued without EU supervisory oversight. The monetary policy implications — reserve requirements, interest transmission, deposit base effects — apply regardless of the issuer's location. The volume of euro-denominated liabilities in circulation affects ECB monetary policy transmission whether those liabilities are issued by a licensed EU entity or an offshore issuer that has chosen euro denomination for commercial reasons.

The criticism that this approach discourages the international role of the euro has it backwards. A well-regulated euro stablecoin issued under MiCA by a licensed EU institution — with strong redemption rights, transparent reserves, and supervisory oversight — would do more for the international role of the euro than an unlicensed euro-pegged token issued from a permissive third country. The international role of a currency is strengthened by the quality and credibility of instruments denominated in it, not by the volume of unregulated liabilities that happen to reference it.

The solution to the competitiveness concern is not to exempt offshore euro issuers from MiCA but to provide a streamlined equivalence pathway for non-EU issuers whose home jurisdiction framework meets MiCA standards in substance — allowing them to access EU markets through a registration rather than a full licensing process while maintaining the reserve and redemption standards that protect EU holders.

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.

Euro-denominated stablecoins subject to MiCA provide full supervisory oversight, reserve transparency, and statutory redemption rights for EU holders regardless of where the issuer is domiciled. The principal advantage of the approach is that it closes the regulatory arbitrage gap that would otherwise allow offshore issuers to access EU users with euro-denominated instruments while avoiding EU reserve and conduct requirements. A euro-denominated token is a euro-denominated liability. Its monetary policy implications do not disappear because its issuer is located outside the EU.

The principal disadvantage is enforceability against non-EU issuers who have no EU establishment and no assets within EU jurisdiction. The requirement applies in principle to all euro-pegged EMTs offered to EU users. In practice, enforcement against a non-EU issuer distributing through self-custodial wallets and decentralised exchanges is limited to restricting CASP access — which affects only the portion of the market that uses licensed intermediaries. Sophisticated users can access non-compliant euro-pegged tokens directly without passing through a licensed EU CASP.

The competitiveness concern — that requiring MiCA compliance for all euro-pegged EMTs discourages non-EU issuers from euro-denominating their tokens — is real but overstated. Non-EU issuers who wish to access EU users through licensed CASPs must comply regardless. Those who choose not to comply self-select out of the regulated distribution channel. The equivalence pathway proposed in Q40 addresses the legitimate competitiveness concern by providing a streamlined compliance route for non-EU issuers operating under equivalent home jurisdiction frameworks, without creating an exemption that would undermine the monetary sovereignty rationale for the requirement.

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

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

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

Please explain your answers to question 33:

5000 character(s) maximum

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

Euro-denominated stablecoins contribute to EU payment autonomy primarily in the wholesale dimension. The retail payment system in the EU is already served by infrastructure — SEPA Instant, domestic instant payment rails, card networks — that does not depend on stablecoin infrastructure. The marginal contribution of euro stablecoins to retail payment autonomy is limited in the near term.

The wholesale payment autonomy contribution is potentially very large. Euro-denominated stablecoins on programmable settlement infrastructure are the primary instrument through which EU financial institutions can execute atomic wholesale settlement — DVP for tokenised securities, repo, margin calls — without dependence on US dollar-denominated intermediaries or correspondent banking chains that route through non-EU institutions. If the settlement layer for European tokenised financial markets operates in dollars because no competitive euro stablecoin exists, EU wholesale payment autonomy is structurally compromised regardless of

what happens in retail.

The contribution to the international role of the euro rates large rather than very large because it is conditional on the interest prohibition being lifted. A euro stablecoin that cannot offer yield is structurally inferior to dollar alternatives in every use case where the holder has a choice. The international role of the euro in digital asset markets will not be enhanced by a euro stablecoin that market participants actively prefer to avoid. Lifting the interest prohibition with appropriate calibration is the precondition for the international role contribution to materialise.

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.

The ECB binding opinion power is the strongest existing safeguard and rates mostly effective. It provides a direct institutional mechanism for the central bank most affected by large-scale stablecoin circulation to intervene before systemic risk materialises. Its effectiveness in practice depends on early trigger mechanisms — the current framework does not specify with sufficient precision at what point the ECB opinion power should be activated, leaving a gap between the quantitative significance thresholds and the moment of actual intervention.

The EU establishment requirement rates moderately effective. It works for licensed entities — it ensures that there is a legal person within EU jurisdiction against whom supervisory and enforcement action can be taken. It does not prevent EU users from accessing non-licensed foreign issuers directly through self-custody infrastructure, which limits its effectiveness as a market access control.

Reserve requirements rate moderately effective in design but are miscalibrated in ways that reduce their practical effectiveness — as argued throughout this response in relation to the deposit composition rules and the UCITS LVNAV gap.

National supervisory intervention powers rate slightly effective because their application is highly variable across member states. Supervisory capacity, speed of response, and willingness to use intervention powers differ materially across the 27 NCAs. This variability is the primary weakness of a decentralised supervisory architecture for instruments that are inherently cross-border. ESMA direct supervision of significant token issuers would address this gap more effectively than relying on NCA coordination.

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.

On-chain analytics can provide reasonable estimates of token holdings attributable to EU-based custodians and licensed CASPs — these are the holdings that matter most for reserve adequacy and systemic risk assessment. Where tokens are held through EU-licensed CASPs or custodians, the CASP's position data provides a reliable and frequent source of EU holding information that supervisors can aggregate with reasonable accuracy.

Self-custodial wallet holdings cannot be attributed to jurisdictions with certainty. A wallet address carries no inherent geographic marker. Chain analytics can make probabilistic attributions based on on-ramp transaction data, IP addresses associated with transaction broadcasts, and behavioural patterns — but these are estimates, not measurements, and they are systematically biased toward underestimating holdings in jurisdictions with high VPN usage and technically sophisticated user bases.

The practical implication is that supervisory monitoring should focus on custodied holdings as the primary data source — with mandatory reporting obligations on licensed CASPs and custodians — while acknowledging that a residual self-custodial population will always be outside precise measurement. The compliance obligation for reserve adequacy should apply to issuers based on total token supply in circulation rather than attempting to measure only EU-resident holdings, which cannot be done with sufficient precision. Chain analytics serves as a supervisory cross-check and early warning tool rather than the primary compliance measurement mechanism.

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

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

Please explain your answer to question 36:

5000 character(s) maximum

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

Limiting redemption rights to EU holders is practically unenforceable and legally problematic. The token itself carries no jurisdiction marker — it is a digital bearer instrument. Restricting the statutory redemption right to EU holders would create a two-tier token that is commercially and technically impossible to implement without a permissioned structure that defeats the programmability benefits of tokenisation and undermines the instrument's value as a global settlement currency.

The underlying concern — that EU reserves may be called by non-EU holders migrating tokens to the EU in stress scenarios to take advantage of MiCA protections — is legitimate. But the correct response is not to restrict redemption rights by holder jurisdiction. It is to ensure that reserve requirements are calibrated to total token supply in circulation wherever held, not merely to the EU-resident portion. A reserve sized for total supply cannot be depleted by non-EU holders exercising redemption rights against it, regardless of where those holders are located.

The dedicated EU liquidity buffer proposed in Q38 addresses the stress scenario more precisely and more enforceably than a holder jurisdiction restriction — by requiring a portion of the reserve pool specifically

allocated to EU redemptions, held in EU-domiciled accounts and not transferable without supervisory approval, without creating an unenforceable tiered redemption structure that would undermine the instrument's credibility as a global bearer instrument.

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.

The concern is structurally sound. In a multi-issuance model, reserves may be held in multiple jurisdictions by separate legal entities. Cross-border reserve transfers require regulatory approval in both jurisdictions, which in stress scenarios — where approval is most needed and most time-sensitive — is least likely to be granted quickly. Capital controls imposed by third countries in response to their own financial stress could block transfers entirely, regardless of the contractual arrangements between the EU and non-EU entities of the same issuer group.

The 2022 Russian sanctions demonstrated how rapidly cross-border asset transfers can be blocked by regulatory or political action — and how difficult it is to anticipate which jurisdictions will impose controls and on what timeline. A multi-issuance stablecoin with reserve assets held partly in a jurisdiction that subsequently imposes capital controls would face an immediate and potentially unresolvable mismatch between EU redemption obligations and accessible reserve assets.

The concern is not theoretical. It is a direct consequence of the structural design of multi-issuance models — distributing reserve assets across jurisdictions to match local regulatory requirements creates the precise vulnerability that the consultation identifies. The mitigation measures in Q38 address it correctly: a dedicated EU liquidity buffer held in EU-domiciled accounts and not transferable without supervisory approval is the most operationally straightforward response to this specific risk. It does not eliminate the cross-border transfer risk — it ensures that a defined portion of the reserve is insulated from it.

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

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

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

Please explain your answers to question 38:

5000 character(s) maximum

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

The dedicated EU liquidity buffer is the most operationally straightforward and most effective mitigation measure — rated 5. Requiring a portion of the reserve pool specifically allocated to EU redemptions, held in EU-domiciled accounts and not transferable without supervisory approval, directly addresses the cross-border transfer risk identified in Q37 without requiring complex holder categorisation infrastructure. It is implementable within the existing MiCA framework through a delegated act specifying the minimum buffer size and eligible asset classes.

Real-time reserve and liquidity reporting rates 4 — it is a necessary complement to any of the structural measures above. Without high-frequency reserve data, supervisors cannot identify stress accumulation early enough to intervene before a liquidity crisis develops. Mandatory daily reserve reporting for significant EMTs and ARTs, with intraday reporting during stressed conditions, should be a Level 2 requirement.

Binding cross-border cooperation arrangements rate 4 in principle but are slow to negotiate and hard to enforce in the jurisdictions where enforcement most matters. They are the correct long-term architecture and should be pursued bilaterally with the US, UK, Singapore, and UAE as the jurisdictions most likely to host significant multi-issuance stablecoin operations.

Restricting redemption rights to CASP clients rates 2 — this measure would create a two-tier token with severe commercial and legal implications, as argued in Q36. It is a last-resort measure that should not be the primary response to the cross-border transfer risk.

Differentiating redemption rights between retail and wholesale holders in crisis rates 2 — the stablecoin bearer instrument structure does not support the holder categorisation infrastructure that fund redemption gate frameworks assume. Implementation would require permissioned token architecture that defeats the programmability benefits of the instrument.

Recent empirical work by the BIS (Working Paper 1355, 2025) provides quantitative grounding for the dedicated EU liquidity buffer recommendation. The paper documents an AR(1) coefficient of 0.36 across five major stablecoins from 2020 to 2025, confirming that redemption flows are serially correlated — outflows predict further outflows. Critically, outflow persistence (0.56) materially exceeds inflow persistence (0.27), meaning that once a redemption episode begins, it tends to accelerate rather than self-correct. The March 2023 SVB/USDC episode — where USDC briefly depegged as Circle disclosed \$3.3 billion in SVB deposits — is documented in the paper as a regime shift that amplified redemption dynamics materially beyond the baseline AR(1) process.

The implication for multi-issuance stablecoin architecture is direct. A stress scenario in which EU reserve assets are needed most — a run-like regime shift triggered by a counterparty event at a reserve-holding institution — is precisely the scenario in which cross-border reserve transfers are least likely to be executed quickly. The BIS flow persistence finding means that by the time a supervisory authority identifies the stress and requests a reserve transfer from the non-EU entity, the redemption episode is already in its accelerating phase. A dedicated EU liquidity buffer held in EU-domiciled accounts and not subject to cross-border transfer constraints is the only structural response that is available at the speed the flow persistence data implies is necessary. The buffer does not need to be large relative to total supply — it needs to be large enough to absorb the initial redemption shock before the cross-border transfer and supervisory cooperation mechanisms can be

activated. The BIS calibration suggests a buffer sized to 2-sigma weekly outflow stress — approximately 6% of EU-resident holdings at the BIS optimal parameters, though this should be recalibrated to MiCA-realistic parameters before being written into Level 2.

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.

The most feasible near-term measure is the dedicated EU liquidity buffer — it is operationally implementable without new holder categorisation infrastructure and directly addresses the most plausible stress scenario. A delegated act specifying the minimum buffer size, eligible asset classes, and conditions for supervisory approval of transfers could be issued under the existing MiCA framework without primary law amendment.

The measures involving differentiated redemption rights raise disproportionality concerns that should be addressed explicitly before any such measure is adopted. Restricting the statutory redemption right for self-custodied token holders creates a structural penalty for the choice not to use an intermediary. This is inconsistent with the EU's general approach to financial consumer protection, which does not condition statutory rights on the use of licensed intermediaries. Any measure that restricts redemption rights by holder category should be subject to a formal proportionality assessment demonstrating that the systemic benefit exceeds the consumer protection cost — and that benefit has not been established in the consultation document.

The differentiation between retail and wholesale holders in crisis scenarios is conceptually borrowed from open-ended fund stress redemption frameworks, where it has some precedent. The legal and operational implementation challenges in a bearer instrument context are severe. A fund knows its investors — it has subscription agreements, KYC records, and account structures that support categorisation. A stablecoin issuer does not have equivalent visibility into the holder base for self-custodied tokens. Implementing holder categorisation would require either a fully permissioned token architecture or real-time on-chain identity verification — both of which impose costs and constraints that are disproportionate to the benefit relative to the simpler liquidity buffer approach.

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.

An equivalence regime is both necessary and complementary to the mitigation measures above. Necessary, because the largest global stablecoins are issued from non-EU jurisdictions and no amount of EU-specific reserve or redemption requirements will change that without a framework for recognising third-country compliance. Complementary, because equivalence determinations can require home-jurisdiction standards as a condition for EU market access — effectively extending MiCA reserve and redemption requirements to non-EU issuers who wish to access EU users through EU-licensed CASPs.

The equivalence regime is not an alternative to the mitigation measures — it operates at a different level. The mitigation measures address the structural vulnerabilities of multi-issuance models that already operate within the MiCA perimeter. The equivalence regime addresses the prior question of which non-EU issuers should be permitted to access the EU market at all, and on what terms. Both are needed. An equivalence regime without the mitigation measures leaves EU holders of equivalent third-country tokens without the structural protections that the buffer and reporting requirements provide. The mitigation measures without an equivalence regime leave the largest global stablecoin issuers outside any framework for EU market access, pushing EU users toward non-compliant alternatives.

The GENIUS Act framework in the US provides the starting point for a bilateral equivalence assessment. Its reserve requirements, redemption obligations, and supervisory framework are sufficiently developed to support a substantive equivalence comparison with MiCA Title III and IV requirements.

That assessment has since firmed up. Treasury's Section 3 proposed rulemaking (18 August 2026) defines issuance, offer, and sale with extraterritorial reach and conditions the availability of foreign-issued stablecoins on the foreign issuer's capacity to comply with lawful orders and on reciprocal arrangements between the US and the issuer's home jurisdiction. The reciprocity provision is the operative point: the GENIUS framework now contains an explicit statutory channel through which an EU equivalence determination would have a counterpart on the US side, rather than remaining a unilateral EU concession.

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.

The equivalence regime should operate on substantive standards, not formal regulatory equivalence. A third-country framework that achieves equivalent outcomes — reserve segregation, par redemption rights, prudential oversight, transparency requirements — should qualify for equivalence regardless of whether it uses the same regulatory architecture as MiCA. Requiring formal equivalence would exclude frameworks that reach the same protective outcomes through different structural mechanisms, and would make the equivalence regime a mirror-image compliance exercise rather than a genuine risk-based assessment.

The regime should grant EU CASPs access to offer equivalence-qualified third-country stablecoins to EU clients, subject to the same conduct and suitability obligations that apply to MiCA-native instruments. It should recognise third-country reserve audit reports without requiring duplicative EU-standard audits, provided the third-country audit standard is itself assessed as substantively equivalent. And it should provide passportable EU distribution for equivalence-qualified issuers who establish an EU registered entity meeting streamlined registration requirements — not the full ART or EMT licensing burden, since the substantive protections are already provided by the equivalence determination.

EU issuers should derive reciprocal recognition of their MiCA compliance as satisfying equivalent third-country requirements, negotiated bilaterally with jurisdictions that do not grant automatic recognition. The GENIUS Act framework in the US provides the clearest starting point for a bilateral equivalence assessment — its reserve requirements, redemption obligations, and supervisory framework are sufficiently developed to support a substantive comparison against MiCA Title III and IV requirements. The UK's evolving stablecoin framework and Singapore's MAS payment token regime are the next most plausible candidates for near-term equivalence determinations.

Treasury's August 2026 rulemaking also strengthens the case for the substantive-standards approach recommended above. Treasury explicitly declined to build its implementing rules on existing securities-law templates such as Regulation S, reasoning from the statute's text that payment stablecoins are neither securities nor commodities. A framework constructed *sui generis* cannot pass a formal-equivalence test against MiCA's architecture and never will — but it can pass a substantive-outcomes test today. An equivalence regime designed around formal architecture would exclude the single most important candidate jurisdiction at the design stage.

The equivalence regime should not extend to jurisdictions whose frameworks fall materially below MiCA standards, regardless of commercial pressure to admit large-volume issuers. The risk identified in Q29 — home jurisdiction prudential inadequacy — is the primary systemic risk in multi-issuance models, and a permissive equivalence regime that admits weak frameworks would recreate that risk inside a nominally regulated perimeter.

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.

Three specific measures would reduce administrative burden under Titles III and IV without reducing investor or systemic protection.

First, a phased authorisation pathway for ART issuers: a streamlined initial application based on core reserve, governance, and capital documentation, with full technical disclosure requirements (Level 2 RTS on authorisation information under Art 18(6)) satisfied within 12 months of authorisation rather than as a precondition to it. This reduces the front-loaded compliance cost that currently makes ART issuance economically irrational before the issuer has generated any revenue.

Second, a single EU-wide authorisation recognition mechanism removing the current ambiguity about whether authorisation in one member state provides full passporting rights without additional national procedural requirements.

Third, standardised machine-readable reporting templates aligned with ISO 20022 messaging, reducing the bilateral integration cost currently borne by each issuer negotiating separate reporting formats with each NCA and each CASP counterparty.

On the Level 1 provisions: authorisation and prudential requirements for ART and EMT issuers rate rather disagree on proportionality. The combination of reserve requirements, governance obligations, and own funds requirements creates a compliance infrastructure that has produced zero licensed ARTs in two years — a result that itself demonstrates the calibration is disproportionate to the addressable market. Governance arrangements and service-specific obligations are broadly appropriate and are not the primary source of the disproportionality.

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.

The remuneration requirements under Art 45(7)(a) rate rather disagree because they are calibrated for credit institution governance structures and are disproportionate for the entity types most likely to issue ARTs — typically smaller, specialised fintech or payment institutions without the executive compensation infrastructure that the RTS assumes. The standard should be recalibrated to scale with issuer size and systemic significance rather than applying uniformly.

The RTS on authorisation information under Art 18(6) rates rather disagree for the reason set out in Q42: the front-loaded disclosure requirements create significant compliance costs before an issuer has any revenue, and are a material contributor to the zero-ART outcome after two years of MiCA operation. A phased disclosure approach — streamlined initial application with full disclosure completed within 12 months — would reduce this barrier without reducing the ultimate standard.

The RTS on own funds under Art 35(6) is neutral rather than problematic. The own funds calculation methodology is broadly sound in isolation. The issue, as argued in Q11, is its interaction with the reserve requirements and the interest prohibition — the cumulative compliance burden, not any single Level 2 act.

Complaint handling and the significance criteria delegated act are neutral and not identified as significant sources of disproportionality.

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.

Standardised machine-readable reporting between CASPs and issuers is a significant operational gap. Currently, each CASP develops bilateral data exchange arrangements with each issuer it lists, producing fragmentation that is costly for both parties and impossible for supervisors to aggregate meaningfully across the market.

A common data standard — built on ISO 20022 messaging for payment and settlement flows, and a

standardised token metadata schema for position, reserve, and redemption reporting — would reduce bilateral integration costs and produce supervisory data quality that the current arrangements cannot achieve. The absence of a common standard means that each new CASP-issuer relationship requires a fresh technical integration exercise, which disproportionately burdens smaller issuers and CASPs who lack the technical resources to negotiate and implement bespoke data formats with each counterparty.

ESMA should mandate this as a binding technical standard under the Level 4 layer of the framework proposed in this response, updated annually to track evolving market infrastructure standards. The standard should cover, at minimum: real-time position reporting from CASPs to issuers for redemption processing purposes; standardised reserve composition and liquidity reporting from issuers to supervisors, in a format that CASPs can also consume for their own conduct and disclosure obligations; and a common token identification standard aligned with ISO 24165 DTI to ensure that position and reporting data can be reconciled across CASPs and issuers without manual mapping.

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 service list is adequate for the market as it existed when MiCA was designed. It does not cover several service categories that have emerged or become commercially significant since the framework was drafted.

The most significant gap is direct issuer-operator services — an entity authorised to create, redeem, and manage tokenised securities without CSD membership, taking on register-holder obligations directly. The current framework requires CSD membership as the condition for securities settlement participation, replicating the traditional paying agent and listing agent layer in tokenised form even where the technology makes that intermediation layer unnecessary. Liechtenstein's TVTG permits exactly this structure — a token issuer can be its own register holder — but MiCA has no equivalent category.

DeFi connectivity services are also absent as a distinct category. A CASP providing client access to DeFi protocols currently falls into an ambiguous position between execution services and something the framework does not explicitly contemplate. This should be a defined service category subject to the liability capacity requirements proposed elsewhere in this response.

Staking services are currently treated as ancillary to custody, which does not adequately capture the distinct risk profile of slashing exposure — a category of loss with no equivalent in traditional custody arrangements.

Collateral management services specific to tokenised instruments — the management of tokenised collateral pools for CCP, repo, and margin purposes — raise distinct operational and legal risks not covered by the existing custody and settlement service definitions, particularly around the enforceability of collateral rights during a stress event.

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.

Add: direct issuer-operator services. An entity authorised to create, redeem, and manage tokenised securities without CSD membership, meeting defined AML, KYC, capital adequacy, and operational resilience requirements equivalent in substance to those applied to CSDs but proportionate to the narrower scope of activity. This is the disintermediation opportunity that mandatory CSD membership currently forecloses. Liechtenstein's TVTG already permits a token issuer to be its own register holder, taking on the legal obligations a CSD holds without CSD membership. MiDA should import this structure directly rather than requiring every tokenised securities issuance to route through the traditional paying agent and listing agent layer regardless of whether that intermediation adds protective value.

Add: DeFi connectivity services. A CASP providing client access to DeFi protocols should be a defined and authorised service category, subject to the liability capacity threshold proposed in this response — regulated intermediaries may connect clients to DeFi protocols only where addressable assets exist that a court can reach. This closes the current ambiguity where DeFi-connecting CASPs operate without a clearly defined regulatory category or corresponding obligations.

Add: staking services as a distinct category. Separate from custody, with specific disclosure requirements covering slashing risk, segregation of client staked assets from operator assets, and minimum capital requirements calibrated to slashing exposure — a category of loss with no equivalent in traditional custody.

Add: collateral management services for tokenised instruments. Covering the management of tokenised collateral pools for CCP, repo, and margin purposes, with specific requirements addressing the enforceability of collateral rights during a stress or insolvency event — a question not adequately addressed by the existing custody and settlement service definitions.

Remove: no existing service category should be removed. The current list is incomplete relative to the market as it has developed since MiCA was designed. It is not overcomplete.

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.

An appropriateness test calibrated to the specific risk profile of crypto-asset services — distinct in design from the MiFID appropriateness test, which is calibrated for financial instruments with different risk characteristics — would provide meaningful protection for retail clients using reception, transmission, execution, and placing services.

The test should assess understanding of three risk dimensions specific to crypto-asset services that the MiFID test does not adequately capture: key management and self-custody risk, including the irreversibility of transactions and the absence of recourse for lost private keys; smart contract and protocol risk, where relevant to the specific service; and the volatility and liquidity characteristics of the specific asset class being accessed, which differ materially from traditional financial instruments and require distinct client understanding.

The test should not replicate the full MiFID suitability assessment structure, which is calibrated for long-term investment advisory relationships and ongoing portfolio management. This would be disproportionate for transactional, execution-only crypto-asset services and would impose costs on CASPs and friction on clients without a commensurate protection benefit. A lighter-touch, service-specific appropriateness test — administered once at onboarding with periodic refresh for material changes in service scope — is the proportionate design.

The test should be standardised across the EU rather than left to individual CASP design, to ensure comparable protection standards regardless of which CASP a retail client uses and to allow supervisors to assess compliance consistently.

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

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

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

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

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

5000 character(s) maximum

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

Yes, there is extensive evidence of non-EU CASPs continuing to offer services in the EU despite lacking MiCA authorisation. The mechanisms are well-documented and technically straightforward to execute: geo-unblocked access through VPNs, which are trivially available and require no technical sophistication beyond basic consumer software; mobile applications distributed through non-EU app stores or sideloaded directly onto devices, bypassing app store jurisdiction controls entirely; peer-to-peer access through decentralised exchange interfaces that require no CASP intermediation at all and therefore fall outside the enforcement perimeter regardless of geoblocking measures; and marketing conducted through social media, influencer channels, and community platforms — Telegram, Discord, X — that operate largely outside the EU regulatory perimeter and are difficult to attribute to a specific jurisdiction for enforcement purposes.

The tools currently available to supervisors — geoblocking requirements imposed on websites, app store removal requests, IBAN restrictions preventing bank transfers to non-licensed exchanges — have demonstrated limited effectiveness against technically sophisticated users. A retail user determined to access a non-EU platform can do so within minutes using freely available tools, and the enforcement mechanisms available to NCAs largely address only the least sophisticated access attempts.

The more productive regulatory approach is not to pursue increasingly aggressive access restriction — which imposes real costs on legitimate cross-border commerce and financial innovation while producing diminishing returns against determined non-compliant actors — but to make EU-licensed CASPs commercially competitive relative to non-EU alternatives. This means addressing the compliance cost asymmetries identified throughout

this response: the interest prohibition that makes EU-licensed euro stablecoins commercially inferior to non-EU dollar alternatives, the disproportionate ART authorisation burden, and the deposit composition rules that constrain EU issuer profitability. Users choose non-EU platforms substantially because EU-licensed alternatives are less commercially attractive, not solely because enforcement is weak. Closing that commercial gap will do more to protect EU consumers than any feasible strengthening of access restriction tools.

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.

The current fixed minimum capital plus overhead-linked floor is a blunt instrument that does not reflect the actual risk profile of different CASP business models. A custody CASP holding several billion euros of client assets on behalf of institutional clients poses fundamentally different risks than a CASP providing only execution services on a riskless principal basis, or a CASP offering advice without ever holding client assets or funds.

The K-factor approach from the Investment Firms Regulation — calibrated to assets under management, client money and assets held, daily trading flow, and other activity-specific metrics — is a more appropriate model than the current fixed capital plus overhead structure. It scales capital requirements to the actual risk being managed rather than to a proxy that captures firm size but not risk concentration.

MiDA should adopt an adapted K-factor framework for CASPs, with factors specifically calibrated to the risks distinct to crypto-asset services: a custody risk factor tied to client assets under custody and the specific key management architecture employed; a market risk factor for CASPs holding proprietary crypto-asset positions; and an operational risk factor reflecting the specific technology and smart contract exposure of the CASP's service model. This would allow capital requirements to scale appropriately as a CASP's business grows and

its risk profile changes, rather than remaining anchored to a fixed minimum that under-capitalises large custodians and over-capitalises small execution-only firms relative to their actual risk.

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

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

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

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



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

5000 character(s) maximum

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

Class 1 minimum capital should be somewhat increased from €50,000. This amount is insufficient for any CASP providing execution or custody services to retail clients, even as a floor rather than the operative requirement. €50,000 does not provide a meaningful buffer against operational failure, client harm, or wind-down costs for a licensed entity handling retail client assets or orders. A floor closer to €100,000 would be a more defensible minimum, still calibrated as a floor beneath the K-factor-based requirement proposed in Q49 rather than as the primary determinant of adequate capitalisation.

Class 2 and Class 3 minimums are broadly appropriate as floors and should be kept roughly as is. The more significant issue is that the differential between Class 2 and Class 3 — €125,000 versus €150,000 — is not sufficiently large to reflect the material difference in risk between the service scopes typically associated with each class. Both classes should move toward the K-factor-based approach proposed in Q49, where the fixed minimum serves only as a floor that the actual requirement should generally exceed once risk-weighted factors are applied. The current structure risks anchoring supervisory and market expectations to the fixed minimums as if they were the operative standard, when they should function only as a backstop beneath a risk-sensitive calculation.

3.3 Multi-function groups

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

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

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

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

Please select as many answers as you like

- ☐ Group-level reporting to a centralised authority
- ☒

Enhanced supervisory cooperation between ESAs / NCAs

- ☐ Operation of new supervisory colleges
- ☒ Consolidated supervision
- ☐ Other

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

5000 character(s) maximum

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

Entities providing both MiCA-regulated crypto-asset services and MiFID-regulated investment services create supervisory gaps that existing cooperation arrangements do not adequately address. The entity is supervised by its NCA for MiCA purposes and by a — potentially different — NCA for MiFID purposes, with no consolidated view of its combined risk profile, capital adequacy across both business lines, or the conflicts of interest that arise when the same entity offers both regulated services to overlapping client bases.

ESMA should have a coordination function for multi-function entities above defined size or systemic significance thresholds, with consolidated risk reporting requirements covering combined capital adequacy, cross-service conflicts of interest management, and aggregate client asset exposure across both service lines. This does not require merging the MiCA and MiFID supervisory frameworks — it requires a coordination mechanism that ensures the entity's combined risk profile is visible to at least one supervisory authority, rather than being split across two authorities each seeing only half the picture.

Full consolidated supervision — as applies to banking groups under CRD — is disproportionate for the current market size of multi-function crypto-asset entities but should be the design target for significant multi-function entities as the market matures and combined MiCA/MiFID entities grow in scale and systemic relevance. A phased approach — enhanced cooperation now, with a pathway to consolidated supervision triggered by defined significance thresholds — is the proportionate design.

3.4 Reporting

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

Question 52. Should CASPs report regularly their activities?

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

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

Please specify what kind of reporting would be useful and how often?

Please explain:

5000 character(s) maximum

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

Regular activity reporting for CASPs is necessary across all four categories listed, and the current absence of any formal reporting obligation beyond market abuse suspicious activity reporting is a significant supervisory gap.

Direct holdings of crypto-assets by CASPs are essential for supervisory risk assessment and for understanding CASP exposure to market risk on their own balance sheets, distinct from client assets held in custody. Without this data, supervisors cannot assess whether a CASP's own risk-taking creates a threat to its operational continuity or its ability to meet client obligations.

Large exposures to derivatives with crypto-assets as the underlying are the primary source of systemic risk from CASPs that is currently invisible to supervisors. Concentrated derivatives exposure at a major CASP could transmit stress to the broader crypto-asset market and to any traditional financial institutions with counterparty exposure to that CASP.

Volumes of leveraged contracts and actual leverage used are the primary amplifier of market stress in crypto-asset markets, as demonstrated repeatedly in the 2022 market decline. Supervisory visibility of aggregate leverage levels across the CASP sector is essential for macro-prudential assessment and for identifying building systemic risk before it crystallises.

Information on counterparty risk addresses the concentration risk that arises from CASP custody, settlement, and prime brokerage relationships. CASP counterparty networks are not currently visible at the individual entity level, which prevents supervisors from identifying concentration risk across the sector.

Reporting frequency should be quarterly for standard periods, with monthly reporting triggered automatically for CASPs approaching significance thresholds or showing rapid growth in derivatives exposure or leverage.

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.

The white paper disclosure requirement for consensus mechanism environmental impact is appropriate in principle and consistent with the EU's broader approach to sustainability disclosure across financial services. The requirement to disclose main adverse impacts on climate and other environment-related factors gives investors relevant information at the point of issuance.

The practical limitation is that the disclosure is static — it reflects the consensus mechanism at issuance and is not updated as the underlying blockchain evolves. Ethereum's transition from proof-of-work to proof-of-stake in 2022 is the clearest example: a token issued on Ethereum before the Merge would have disclosed a materially different environmental profile than the same token would disclose today, and there is no mechanism under the current framework requiring the disclosure to be updated to reflect that change.

A dynamic disclosure requirement — updated annually or triggered by material changes to the underlying consensus mechanism — would produce substantially more useful information for investors and for CASPs required to make the information available under their own disclosure obligations. This should be a Level 2 RTS amendment rather than a primary law change.

The RTS methodology should also be aligned with existing EU taxonomy and CSRD methodologies where the underlying environmental impact categories overlap, to enable meaningful comparison between crypto-asset environmental disclosures and disclosures required of other regulated entities under the broader EU sustainable finance framework. Currently the methodologies are calculated independently, which limits their comparability and their usefulness for investors assessing environmental impact across an asset allocation that spans both crypto-assets and traditional instruments.

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?

DORA's framework is broadly adequate for the operational resilience aspects of CASP cybersecurity — ICT risk management, incident reporting, resilience testing, and third-party risk management are all reasonably well-specified and appropriate for CASPs as DORA-covered entities.

The specific gap that DORA does not address is the key management and wallet infrastructure layer — the private key custody architecture that is unique to crypto-asset service provision and has no direct equivalent in traditional financial services. DORA's operational resilience framework was designed around IT systems, databases, and payment infrastructure where recovery typically means restoring from backup or failing over to redundant systems. The loss or compromise of key management infrastructure is a categorically different type of operational failure — there is frequently no recovery mechanism once a private key is compromised or destroyed, unlike a database outage or a payment system failure where the underlying data or funds remain intact and recoverable through alternative means.

ESMA should develop specific technical standards, as a supplement to DORA's general operational resilience framework, covering: key management architecture requirements, including mandatory multi-signature or threshold signature schemes for client asset custody above defined thresholds; hardware security module requirements for institutional-scale custody operations; key generation, storage, and rotation protocols with defined minimum standards; and incident response protocols specific to key compromise scenarios, including mandatory client notification timelines that account for the irreversibility of crypto-asset transfers in a way that DORA's general incident reporting framework does not specifically contemplate.

A second gap, related but distinct, is smart contract risk for CASPs that interact with DeFi protocols or issue tokens with programmable functionality. DORA's ICT risk management framework does not specifically address smart contract audit requirements or the ongoing monitoring obligations appropriate for CASPs whose operational integrity depends on the correctness of deployed smart contract code, as distinct from traditional software systems that can be patched and updated without the same permanence constraints.

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 PSD3 review has clarified the boundary between EMT transfer services and payment services for the clearest cases — where a transaction is straightforwardly either a crypto-asset exchange or a fiat payment service, the revised framework provides workable guidance on which regime applies.

The residual ambiguity that remains concerns stablecoin-denominated B2B payment flows that involve both a crypto-asset exchange component and a payment service component within a single commercial transaction. A common example: a business pays a supplier in a stablecoin, which is then converted to fiat by the recipient's payment service provider as part of a single integrated commercial arrangement. The same overall transaction could be characterised as either a crypto-asset service — subject to MiCA CASP requirements at the exchange step — or a payment service — subject to PSD3 requirements at the fiat conversion and transfer step — depending on which step of the transaction is treated as determinative, and current guidance does not provide a clear rule for making that determination.

The consultation should consider whether a primary regulation principle would resolve the remaining boundary cases more cleanly than the current case-by-case approach: MiCA governs where the transaction originates with a crypto-asset and the crypto-asset characteristics determine the primary risk profile of the transaction; PSD3 governs where the transaction terminates in fiat and the payment service characteristics determine the primary risk profile. This origin-and-termination principle would give market participants a predictable rule to apply at the point of structuring a service offering, rather than requiring a case-by-case regulatory determination that creates uncertainty and compliance cost, particularly for CASPs and payment institutions operating integrated stablecoin payment rails that combine both regulatory dimensions within a single product.

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.

The current CASP framework does not explicitly restrict access to non-EU liquidity pools, but the practical effect of MiCA compliance obligations — particularly best execution and conflict of interest requirements as they are currently interpreted — is to incentivise CASPs to route order flow to EU-regulated venues where possible, creating an implicit compliance barrier to routing toward non-EU venues even where those venues offer materially better execution.

The advantage of an EU liquidity focus is supervisory visibility and stronger investor protection — trades executed on EU-regulated venues are subject to EU market abuse rules, transparency requirements, and supervisory oversight that non-EU venues may not provide to an equivalent standard. This is a genuine and material benefit for EU retail clients in particular.

The disadvantage is that EU crypto-asset liquidity remains a fraction of global liquidity across most asset pairs, and artificial confinement to EU venues produces materially worse execution outcomes for EU clients than global routing would — wider spreads, greater price impact for larger orders, and slower execution during periods of EU-specific illiquidity that would not affect global venues. For institutional and professional clients in particular, restricting access to global liquidity pools imposes a real cost that is not offset by a commensurate protection benefit, since these clients are less reliant on the investor protection framework that justifies EU venue preference for retail clients.

The correct balance is best execution obligations that explicitly permit and, where execution quality demonstrably favours it, require routing to non-EU venues, subject to disclosure requirements informing clients when and why non-EU venue routing is used, and subject to enhanced due diligence obligations on the CASP regarding the non-EU venue's own market integrity and operational standards. The current framework does not clearly achieve this balance — it neither explicitly mandates EU-first routing nor explicitly protects the CASP's ability to route globally where execution quality justifies it, leaving the practical outcome to compliance risk aversion that tends toward de facto EU confinement regardless of client interest.

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.

The authorisation process rates rather disagree on proportionality. It is lengthy and resource-intensive relative to the scale of most CASP applicants, particularly smaller and newer entrants who face the same procedural burden as large, systemically significant firms without a proportionality mechanism that scales the process to the applicant's size and risk profile.

A streamlined registration-plus-notification process for small CASPs — defined by thresholds on assets under management, client numbers, or transaction volume — would reduce barriers to entry for legitimate smaller entrants without reducing the ultimate authorisation standard applied to significant entities. The current uniform process effectively favours larger, better-capitalised applicants who can absorb the fixed cost of authorisation regardless of the scale of business they intend to conduct, which works against the diversity and competitive dynamism the framework should support.

Prudential requirements, governance arrangements, and service-specific obligations are neutral — broadly appropriate in structure, with the calibration issues addressed specifically in Q49 and Q50 rather than being a proportionality problem with the Level 1 framework itself. The gaps identified in the service list under Q45 and Q46 are gaps in scope, not disproportionality in the obligations attached to existing defined services.

Other Title V rules are neutral and not identified as a significant source of disproportionate burden.

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.

The transparency requirements under the pre- and post-trading data RTS are appropriate in principle — comparable to equivalent MiFID transparency obligations and consistent with the broader goal of market integrity in crypto-asset trading venues. The practical concern is implementation cost for smaller CASPs, who face the same technical infrastructure requirements as larger, more established trading venues without a scaled compliance pathway.

The record-keeping requirements under Art 68(10)(b) are extensive but broadly appropriate given the market abuse and investor protection objectives they serve. Standardised formats — specifically aligned with ISO 20022 messaging standards already referenced elsewhere in this response — would reduce implementation costs significantly by allowing CASPs to build a single record-keeping infrastructure that satisfies both MiCA requirements and equivalent obligations under other EU financial services frameworks, rather than maintaining parallel systems calibrated to each regulation's specific format requirements.

The continuity and regularity RTS under Art 68(10)(a) rates agree — the operational continuity requirements are appropriate and the associated technical standard is well-calibrated to the risks it addresses, given the consequences of service disruption for clients relying on continuous access to their crypto-asset holdings and trading capability.

The order book and records RTS under Art 76(16)(b) is neutral — appropriate in substance, though the specific format requirements would benefit from alignment with the broader ISO 20022 standardisation recommended throughout this response to reduce the cumulative technical implementation burden CASPs face across multiple overlapping Level 2 acts.

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.

DEX liquidity for long-tail assets frequently exceeds centralised exchange liquidity for the same assets, and the absence of counterparty risk in an automated market maker structure is a genuine benefit relative to centralised exchange counterparty exposure. Use remains limited primarily because of smart contract risk and the absence

of any recourse mechanism when things go wrong — a protocol exploit or oracle failure leaves the user with no path to recovery comparable to what exists against a licensed, regulated centralised counterparty.

Programmable payment conditions and atomic settlement offer genuine advantages for specific institutional use cases — conditional payments, escrow arrangements, and multi-party settlement structures that traditional payment rails handle poorly or not at all. Adoption remains limited by the absence of recourse and by regulatory uncertainty about the status of DeFi-based payment services under the current framework.

On-chain derivatives and structured product protocols offer capabilities — permissionless access, composability with other DeFi primitives, transparent on-chain settlement — not available through licensed intermediaries operating within traditional market structures. Risk management infrastructure and recourse absence remain the primary constraints on broader adoption, particularly for institutional users who require defined risk management frameworks before committing meaningful capital.

Over-collateralised lending protocols operate without traditional credit risk in ways that traditional lending cannot replicate — the collateral is verifiable on-chain in real time rather than relying on periodic reporting and trust in the borrower's disclosed financial position. Liquidation mechanisms and oracle manipulation risk are the primary non-mitigated weaknesses, as demonstrated in several documented liquidation cascade events during periods of market stress.

Custody through DeFi infrastructure — multisignature wallets, smart contract-based custody — has genuine technical advantages in terms of transparency and reduced single points of failure. The institutional adoption constraint is not primarily regulatory. It is operational risk management and insurance coverage, neither of which currently exists at institutional scale for DeFi-based custody arrangements, making this the DeFi service category with the most limited near-term institutional relevance regardless of regulatory treatment.

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.

Operational risk is the most serious and best-documented category. Smart contract vulnerabilities, oracle manipulation, and governance attacks are recurring, not theoretical — the DAO hack, numerous cross-chain bridge exploits, and repeated oracle manipulation incidents across multiple protocols demonstrate that operational risk in DeFi is structural rather than incidental.

Investor protection risk is rated equally high. The absence of any recourse mechanism is the most fundamental consumer protection gap in DeFi. A retail user harmed by a protocol exploit, an oracle failure, or a governance attack has no equivalent to the civil liability, ombudsman, or supervisory complaint mechanisms available against a regulated intermediary. The liability capacity threshold proposed throughout this response addresses the most serious manifestation of this risk by ensuring that regulated intermediaries connect clients only to protocols where addressable assets and accountable parties exist.

Money laundering and terrorist financing risk is rated 4 rather than 5. DeFi protocols are genuinely used for mixing and layering, and the absence of KYC at the protocol level creates a structural FATF compliance gap. The risk should not be overstated relative to cash, however — on-chain transactions are permanently traceable in a way cash transactions are not, which gives law enforcement and chain analytics tools capabilities that do not exist for physical currency.

Market abuse is rated 4. MEV extraction, sandwich attacks, and front-running are forms of market manipulation endemic to current DeFi transaction ordering architecture. They are not equivalent in mechanism to traditional market manipulation but produce comparable distributional harm to ordinary users.

Financial stability is rated neutral. DeFi is not yet large enough in absolute scale to pose systemic risk to the broader EU financial system. The concern is plausible as a forward-looking risk as the sector grows — the liquidity cascades observed during the 2022 crypto market decline, where DeFi liquidation mechanisms amplified price movements beyond what the initial shock would have produced, are a precursor of what larger DeFi TVL could generate in a future stress event.

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.

As argued throughout this response, decentralisation degree is the wrong organising question for determining regulatory treatment. The relevant criterion is liability capacity — whether there is an entity or asset pool a court can reach. That said, for the specific purpose of assessing the degree of decentralisation as requested in this question, the criteria below are ranked by how reliably they indicate genuine regulatory subjectivity.

The existence of an identifiable intermediary is the clearest and most enforceable criterion. If there is an identifiable person or entity providing the service, there is a regulatory subject regardless of how the underlying protocol is technically structured.

Admin key control is equally decisive. A protocol whose code can be upgraded unilaterally by an identifiable person is not decentralised in any legally meaningful sense, regardless of how its governance is marketed. Admin key control should function as a near-conclusive presumption of control for regulatory purposes.

Governance token concentration can produce effective control without formal admin keys — a threshold, such as any single entity holding more than 25% of governance tokens, should create a rebuttable presumption of control that the protocol can contest but must affirmatively address.

Custody of user assets by the protocol creates both the most concrete user protection obligation and the most tractable enforcement target, since asset custody is precisely where the liability capacity question in Q62 becomes operationally relevant.

Open source status is a useful transparency indicator but is neither necessary nor sufficient for decentralisation — a protocol can be fully open source and still centrally controlled through admin keys, and a closed-source protocol can in principle be genuinely decentralised in its operational control, though this is rare in practice.

Marketing by an identifiable entity creates a commercial relationship with users that supports regulatory subjectivity even where the underlying protocol technology is genuinely decentralised, since the marketing entity has made representations to users that should carry accountability regardless of the protocol's technical governance structure.

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.

The most effective mechanism for indirectly accounting for risks to users of fully decentralised DeFi protocols is the one proposed throughout this response: regulated intermediaries — CASPs, banks, investment firms — may connect clients to DeFi protocols only where addressable assets exist that a court can reach.

This approach imposes the accountability obligation on the licensed intermediary rather than attempting to regulate the fully decentralised protocol directly, which is both conceptually difficult and practically unenforceable against protocols with no identifiable controlling party. The intermediary has a direct commercial and legal incentive to assess protocol risk before connecting clients to it, because it bears liability for client harm arising from that connection. This produces a market-based due diligence mechanism without requiring a certification regime that would be technically complex to design, resource-intensive to operate at the scale of the DeFi ecosystem, and potentially subject to capture by incumbent protocols with the resources to navigate a certification process that newer or smaller protocols cannot.

Requiring due diligence at the point of intermediary connection also scales naturally with the actual risk to EU users — a fully decentralised protocol that no licensed intermediary chooses to connect clients to poses limited risk to EU retail users regardless of its underlying risk profile, since retail access would be limited to sophisticated users interacting with the protocol directly and knowingly outside any regulated channel.

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

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

Please explain your answer to question 63, and explain for which types of DeFi services you support introducing certification schemes and for what reasons:

5000 character(s) maximum

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

Certification is a useful complement to the liability capacity threshold proposed throughout this response, but it should not be mandatory across the entire DeFi universe. A universal certification requirement — covering all

DeFi protocols and smart contracts regardless of whether they provide any service currently defined under MiCA — would be disproportionate, would extend the regulatory perimeter well beyond activities MiCA was designed to address, and would be difficult to justify for protocols that provide no service to EU users through any regulated channel.

Certification should apply specifically to DeFi protocols and smart contracts providing crypto-asset services already defined under MiCA — exchange, custody, trading, lending — where a certification pathway would give regulated CASPs a lighter-touch due diligence option when connecting clients to those protocols. A certified protocol reduces the CASP's own due diligence burden under the liability capacity framework, since certification provides third-party verification of the smart contract security and operational integrity that the CASP would otherwise need to assess independently.

Extending certification to services not currently in MiCA's scope — such as lending and borrowing, addressed separately in Q67 — should be considered only once those services are themselves brought within the regulatory perimeter, rather than certifying protocols for services the framework does not yet regulate. Certification without an underlying regulatory framework for the service itself would create a compliance signal with no clear regulatory consequence attached to it, reducing its value to both CASPs and users.

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.

A lighter-touch certification pathway for partially decentralised protocols is preferable to requiring a full CASP licence, which would make most hybrid DeFi protocols commercially impractical given the compliance infrastructure a full licence requires. Certification should verify smart contract security, operational resilience, and governance transparency without imposing the full prudential and conduct framework designed for centralised service providers.

Requiring protocols to integrate specific compliance tools as a condition of certification — AML screening at the wallet interaction level, governance token concentration limits, oracle source disclosure — is appropriate and gives the certification process substantive content rather than being a purely documentary exercise.

Mandatory certification for non-custodial wallet software before public release rates rather disagree. This would be disproportionate and would conflict with the principle that self-custody is a right rather than a regulated service. Wallet software is a tool, not a service provider — the developer of a non-custodial wallet does not custody, execute, or otherwise intermediate a user's crypto-assets, and requiring pre-market certification for such tools would set a precedent extending well beyond the service-based regulatory logic proposed throughout this response.

Voluntary incentivised certification for non-custodial wallet developers is the proportionate alternative — certification could unlock benefits such as listing in curated CASP-recommended wallet directories or reduced due diligence friction when a certified wallet interacts with regulated services, without imposing a mandatory pre-market gate on tools that do not themselves provide a regulated service.

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.

Private sector certification bodies — analogous to credit rating agencies or external audit firms in traditional finance — are the most scalable model for DeFi protocol certification, provided they operate under ESMA accreditation and defined methodological standards. Public sector capacity for protocol-level technical certification at the scale and speed the DeFi ecosystem requires is not realistic given the specialised smart contract security expertise involved and the pace at which new protocols and protocol versions are deployed.

Allowing any interested party to request certification of a fully decentralised protocol — not only the protocol's own team, which may not exist as an identifiable party for a genuinely decentralised protocol — is important and rates strongly agree. Community members, governance participants, or third parties with a legitimate interest in a protocol's certification status should be able to initiate the process. Without this, genuinely decentralised protocols with no identifiable controlling entity could remain permanently uncertified simply because no party has the standing or incentive to apply, denying users the benefit of certification for protocols that may in fact be well-secured.

A significance-based mandatory certification threshold — for example tied to total value locked — is a reasonable middle path and rates neutral rather than strongly agree, since the appropriate threshold calibration requires further empirical work on the relationship between protocol scale and systemic relevance to EU users specifically, which is not yet well established.

Prohibiting CASPs from connecting clients to any uncertified protocol rates rather disagree. This would be too restrictive during the period while certification infrastructure is being built out, and would in practice exclude EU CASP clients from a large share of the DeFi ecosystem that may be perfectly safe but simply has not yet gone through a certification process. The liability capacity threshold proposed throughout this response is the more immediate and proportionate constraint — CASPs may connect clients to any protocol where addressable assets exist that a court can reach, with certification serving as a valuable but non-exclusive risk-reduction tool within that framework rather than a hard gate.

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.

Staking services involve two risks that are not adequately addressed by treating staking as merely ancillary to custody under the current framework: the custody of private keys, which the existing custody obligation does address, and exposure to validator slashing risk, which it does not.

Slashing risk — where a validator's staked assets are partially or wholly destroyed as a penalty for protocol rule violations, such as double-signing or extended downtime — is a category of loss with no direct equivalent in traditional custody arrangements. A custodian holding traditional assets bears operational risk of loss through theft, fraud, or negligence, but does not expose the underlying asset itself to a protocol-imposed penalty mechanism that can permanently destroy a portion of the client's holding through the ordinary operation of the validator infrastructure, even absent any custodial misconduct.

Staking service providers should be subject to specific requirements distinct from general custody obligations, covering: mandatory disclosure of slashing risk, including the specific slashing conditions of the protocol in question and the provider's historical slashing record across its validator operations; segregation of client staked assets from operator-owned staked assets, so that a slashing event affecting the operator's own validators does not create an incentive structure that disadvantages client assets; minimum capital requirements calibrated to the provider's aggregate slashing exposure across its validator operations, providing a buffer against operational failures that trigger slashing penalties; and explicit client consent procedures that specifically address the irreversibility of slashing losses, distinct from the general custody risk disclosures currently required, since a client agreeing to standard custody terms has not necessarily understood or consented to protocol-level penalty exposure.

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.

The main elements of a regulatory framework for crypto-asset lending and borrowing should be built around a distinction the current consultation does not draw explicitly: over-collateralised DeFi-native lending and under-collateralised institutional lending present materially different risk profiles and should not be regulated identically.

For over-collateralised lending protocols, the primary regulatory requirements should cover disclosure of collateral requirements, liquidation mechanisms and their historical performance under stress, and re-hypothecation policies where client collateral is reused within the protocol or by the lending platform. Minimum collateral ratios and margin call procedures should be standardised and disclosed in comparable format across platforms, allowing users to assess liquidation risk before committing capital. Segregation of lender assets from borrower collateral and from the operating entity's own assets should be mandatory, mirroring the custody segregation principle applied elsewhere in MiCA.

For under-collateralised or unsecured lending, a prohibition on offering such products to retail clients is appropriate given the absence of the credit assessment infrastructure — income verification, credit history, affordability assessment — that underpins responsible unsecured lending in traditional consumer credit regulation. Crypto-asset lending platforms currently lack equivalent infrastructure, and extending unsecured credit to retail clients without it replicates the consumer harm patterns that consumer credit regulation was designed to prevent.

Capital requirements for lending platform operators should be calibrated to the credit risk profile of the loan book — higher for platforms offering under-collateralised institutional lending, lower for platforms operating purely automated over-collateralised protocols where the smart contract enforces liquidation mechanically rather than relying on operator discretion or credit judgment.

4.3 Non-fungible tokens

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

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

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

Please explain your answer to question 68:

5000 character(s) maximum

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

The current NFT market, as primarily constituted, does not exhibit the systemic risk or scale of investor harm that would justify a comprehensive dedicated regulatory regime. The principal documented harms in the NFT market — fraud, wash trading to inflate apparent value, and misleading attribution of provenance or rights — are better addressed through existing consumer protection law and market abuse provisions than through a

bespoke NFT-specific regulatory framework, since these harms are not unique to NFTs and the tools to address them already exist in adjacent legal frameworks.

The qualification that materially limits this answer: NFTs issued in series, or NFTs with embedded financial rights such as revenue sharing, governance rights, or redemption obligations, are functionally different instruments from the collectible or unique-item NFTs the “no regulation needed” conclusion is based on. Such instruments are already within the MiCA perimeter where they meet the fungibility and crypto-asset service definitions, or should fall within MiFID scope where the rights conferred meet the financial instrument definition, depending on the specific rights structure.

The consultation’s framing of NFTs as a single homogeneous category requiring a single regulatory answer understates the heterogeneity of what is currently marketed under the NFT label. A one-time digital art piece with no embedded financial rights and a token issued in a series of 10,000 identical units conferring revenue-sharing rights are both currently called NFTs in common usage, but they present entirely different regulatory questions. The correct approach is not a dedicated NFT regime but clearer guidance — building on the existing fungibility test referenced in Q7 — on when an instrument marketed as an NFT in fact falls within an existing regulatory category based on its actual rights structure rather than its marketing label.

4.4 Prediction markets and perpetual futures

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

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

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

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

Please elaborate on your answer to question 69:

5000 character(s) maximum

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

Prediction markets present genuine information aggregation benefits that justify their continued existence and development. They aggregate dispersed private information into price signals that empirical research has repeatedly shown to outperform other forecasting methods across a range of domains, from election outcomes to scientific replication predictions to macroeconomic indicators. This information aggregation function is a genuine public good distinct from any entertainment or speculative use of the product.

The principal risks associated with prediction markets, particularly as they have scaled through DLT-based and smart contract implementations, are threefold. First, gambling regulation displacement — prediction markets structured around sports outcomes or other purely entertainment-oriented events are functionally close to sports betting, and offering them through a financial market structure rather than a gambling licence framework risks circumventing the consumer protection standards that gambling regulation specifically addresses, such as

responsible gambling safeguards and vulnerable person protections that financial market conduct rules do not typically contain. Second, money laundering risk through offshore prediction market platforms operating with limited KYC. Third, retail harm from consumers engaging with poorly understood exposure to binary or near-binary outcomes, where the payoff structure and effective leverage may not be well understood by retail participants attracted by the market's framing as an "information" or "forecasting" product rather than a speculative wager.

DLT-enabled prediction markets specifically add oracle manipulation risk to this list — since the outcome that determines settlement is itself typically resolved by an oracle mechanism, and that mechanism becomes a single point of manipulation risk that does not exist in the same form for traditional exchange-traded or bookmaker-settled prediction products, where a regulated entity with reputational and legal accountability determines the settlement outcome.

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.

Prediction markets are not financial instruments in the MiFID sense. They do not represent rights in an underlying asset, a claim on an issuer, or a derivative contract referencing a financial instrument in any conventional sense that MiFID's Annex I Section C list was designed to capture. A prediction market contract is closer to a contingent claim on the occurrence of a real-world event — which MiFID was not designed to regulate and does not naturally accommodate within its existing instrument taxonomy without significant strain.

MiCA provides a more flexible and appropriate framework that can accommodate the disclosure and conduct requirements appropriate for prediction market participants and operators without requiring the full MiFID investment firm authorisation structure, position limit regime, and market infrastructure requirements that were designed for trading in financial instruments with an underlying economic claim on an issuer or asset. The token-based structure of most DLT-enabled prediction markets — where a position is represented by a crypto-asset that settles based on the outcome of the underlying event — fits more naturally within MiCA's existing crypto-asset service and disclosure architecture than within MiFID's instrument-based framework.

The gambling law boundary question — whether event-based prediction markets, particularly those referencing sports or entertainment outcomes, are more properly characterised as gambling products subject to national gambling regulation rather than financial products subject to EU financial services law — is a genuine and important question that MiCA cannot resolve on its own, since gambling regulation remains a national competence under EU law. The consultation and any resulting MiDA framework should acknowledge this boundary explicitly rather than assuming that classifying a product as MiCA-regulated resolves its regulatory status comprehensively; a coordination mechanism with national gambling regulators may be necessary for event categories with a clear gambling character.

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.

Substantive requirements for prediction market service providers should be built around the specific risks that distinguish prediction markets from conventional crypto-asset trading, rather than simply importing Title II disclosure obligations wholesale.

Disclosure requirements should cover: the oracle mechanism determining settlement, including whether it is a single centralised oracle, a decentralised oracle network, or a designated reporting agent, and the mechanism's historical accuracy and dispute record; the counterparty structure of the market, specifying whether the platform operates as a peer-to-peer matching venue, an automated market maker with platform-provided liquidity, or a bookmaker-style counterparty bearing the platform's own risk; the liquidity pool or market maker arrangements underlying the market, including any conflicts of interest where the platform operator also provides liquidity; the dispute resolution procedure for contested outcomes, specifying who adjudicates disputes and what recourse a participant has if they believe an outcome was resolved incorrectly; and the treatment of participant funds during a contested settlement period, ensuring funds are not released to one side of a disputed market before the dispute is resolved.

Conduct requirements should include a clear prohibition on market manipulation through oracle mechanism control, recognising that a party with influence over the oracle has a direct financial incentive to manipulate the settlement outcome in markets where they hold a position — a risk with no close equivalent in traditional exchange-traded markets where the settlement price is determined by an independent, liquid reference market rather than a designated reporting mechanism. AML obligations on participant onboarding should apply on the same basis as for other crypto-asset services. Cooling-off periods or enhanced risk warnings for new participants entering high-risk or high-volatility markets, particularly those with near-binary payoff structures, would address the retail harm risk identified in Q69 without prohibiting the product outright.

Capital requirements for prediction market operators should be calibrated to the maximum plausible exposure arising from settlement disputes or oracle failures — specifically, the capital or reserve buffer needed to make participants whole in the event that a settlement must be reversed or compensated for after funds have already been distributed based on an incorrect initial resolution.

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

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

Please explain your answer to question 72:

5000 character(s) maximum

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

Perpetual futures are derivatives. They do not cease to be derivatives because the underlying reference asset is a crypto-asset rather than a commodity, equity index, or financial instrument in the traditional sense. The economic structure of a perpetual future — a leveraged contract for difference with a funding rate mechanism substituting for the expiry and roll process of conventional futures — is a derivatives structure regardless of what asset class it references, and MiFID's derivatives framework is designed to regulate precisely this structure.

MiFID's existing derivatives architecture — position limits, margining requirements, daily mark-to-market obligations, reporting to trade repositories, and mandatory clearing through authorised CCPs above defined thresholds — is the appropriate regulatory framework for perpetual futures on crypto-assets. MiCA was not designed to regulate derivatives and does not contain the position limit regime, margin call procedures, or settlement finality provisions that derivatives regulation requires to function safely. Attempting to regulate perpetual futures through MiCA would require importing substantial portions of the MiFID derivatives framework into MiCA in any case, which argues for applying MiFID directly rather than duplicating its architecture within a framework not designed to hold it.

The CASP authorisation framework can continue to cover the execution, custody, and client-facing service dimensions associated with perpetual futures trading — a CASP offering access to perpetual futures still needs MiCA authorisation for the crypto-asset custody and execution services it provides — without requiring the futures instruments themselves to be classified as MiCA crypto-assets for the purposes of the derivatives-specific risk controls that apply to the product. This dual application, MiFID for the derivative instrument and its specific risk controls, MiCA for the crypto-asset service layer surrounding it, is consistent with the service-based regulatory logic proposed throughout this response.

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.

The MiFID derivatives framework should apply in full to perpetual futures on crypto-assets: position limits calibrated to prevent excessive concentration in thinly traded crypto derivatives markets, margining requirements sufficient to cover realistic tail-risk price moves given the volatility profile of crypto-assets, daily mark-to-market, reporting to trade repositories, and mandatory clearing through authorised CCPs above defined position or volume thresholds.

Beyond the standard MiFID framework, several crypto-specific adaptations are needed to make the regime function properly for this asset class. First, 24/7 margin call procedures — traditional margin frameworks assume defined market hours and settlement cycles, but crypto-asset markets trade continuously, and a margining regime built around business-day settlement cycles would leave gaps during which a position could move substantially without a margin call being triggered or met. Second, automatic liquidation mechanism disclosure and backtesting requirements — perpetual futures platforms typically rely on automated liquidation engines rather than human margin call processes, and these engines should be subject to disclosure of their triggering logic and backtesting against historical stress scenarios, given documented cases of liquidation cascades amplifying price moves during periods of market stress. Third, oracle source disclosure for the price feeds used in mark-to-market and liquidation calculations, since perpetual futures settlement and margin calls depend on a reference price that is itself vulnerable to manipulation, particularly for thinner markets where the

oracle draws from limited underlying liquidity. Fourth, enhanced position concentration reporting given the comparatively thin order books typical of crypto derivatives markets relative to traditional futures markets on major indices or commodities — a position that would be immaterial relative to a deep traditional futures market could represent a systemically significant concentration in a thinner crypto derivatives market, and reporting thresholds should reflect this difference in market depth rather than applying the same concentration thresholds used in traditional derivatives markets.

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 / transformative 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.

P2P payments and retail POI payments rate low relevance because existing card network and instant payment infrastructure already serves these use cases adequately for domestic and everyday transactions, and tokenised deposits offer no material advantage over SEPA Instant or established card rails for these specific applications where speed and cost are not the binding constraint.

Intra-EU cross-border payments rate moderate relevance — SEPA already provides reasonably fast and low-cost cross-border coverage within the EU, so the marginal benefit of tokenisation is real but not transformative for this specific corridor.

International payments and remittances to third countries rate high relevance, since this is where existing correspondent banking infrastructure is genuinely slow, expensive, and opaque, and tokenised deposits combined with atomic settlement could materially improve speed and cost for corridors currently underserved by SEPA-equivalent infrastructure.

The highest-relevance use cases cluster clearly around wholesale market infrastructure rather than retail payments: settlement of tokenised securities, DvP and atomic settlement, on-chain collateral and margining, and reduction of counterparty and settlement risk. These four use cases share a common structural feature — they all depend on the programmable cash leg that tokenised deposits are specifically designed to provide, enabling simultaneous exchange of asset and payment leg without the settlement lag and counterparty exposure inherent in traditional T+1 or T+2 settlement cycles. This is where tokenised deposits offer a capability that does not currently exist in EU market infrastructure at scale, rather than merely improving on an existing capability.

Intraday liquidity management, treasury and liquidity management for corporates and financial institutions, and programmable payments rate high but not maximum relevance — genuine benefits from 24/7 availability and conditional payment logic, but these use cases can in part be served by existing treasury management tools and are evolutionary improvements rather than the structurally new capability that atomic DvP settlement represents.

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

Please explain why the case(s) you selected in your answer to question 75 are the most promising in the EU:

5000 character(s) maximum

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

The two most promising use cases for tokenised deposits in the EU are DvP and atomic settlement of tokenised financial instruments, and on-chain collateral and margining in regulated markets.

DvP and atomic settlement addresses a structural inefficiency in current EU market infrastructure that has persisted despite decades of settlement cycle compression efforts — the T+1 standard now in effect still leaves a settlement window during which counterparty risk exists, capital is tied up, and operational failures in the chain between trade execution and final settlement can occur. Tokenised deposits providing the programmable cash leg allow the asset and payment legs of a transaction to settle simultaneously and atomically, eliminating the settlement window entirely rather than merely compressing it further. This is qualitatively different from the multi-decade project of shortening T+3 to T+2 to T+1 — it removes the underlying risk rather than reducing its duration. For a market structure that has spent thirty years incrementally compressing settlement cycles through the Giovannini process and its successors, atomic settlement represents the terminal point of that effort rather than another incremental step.

On-chain collateral and margining in regulated markets is the second most promising use case because it directly addresses intraday liquidity efficiency for market participants managing margin obligations across CCPs, prime brokers, and bilateral counterparties. Tokenised collateral that can be moved and re-hypothecated programmatically, with real-time visibility into collateral location and encumbrance status, would materially reduce the operational friction and liquidity buffers that market participants currently hold to manage intraday margin calls across fragmented, non-interoperable collateral management systems. The efficiency gain here compounds with the DvP benefit — a market structure where both the securities settlement leg and the collateral management leg operate on programmable, atomic infrastructure represents a genuinely different capital efficiency profile for EU capital markets than the current fragmented system provides.

This use case is no longer prospective. In June 2026 the ECB accepted DLT-native securities issued via Clearstream's D7 platform as eligible collateral in the Eurosystem Collateral Management System, and the EIB issued €77.5m of CSDR-compliant DLT-native commercial paper on D7, which DekaBank and Eurex Clearing subsequently mobilised as Eurosystem collateral with the Bundesbank through Clearstream's triparty connection to ECMS. The full chain — tokenised issuance, distribution, central bank refinancing — has operated end-to-end inside existing regulated infrastructure. The policy task is no longer demonstrating feasibility but extending eligibility beyond CSD-issued instruments and mandating the interoperability described

in Q76–77.

Both use cases share the characteristic that they primarily benefit institutional and wholesale market participants rather than retail users, which is consistent with the broader finding in Q74 that tokenised deposits offer their clearest value in wholesale settlement infrastructure rather than retail payment applications.

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.

Several factors constrain the development and uptake of tokenised deposits in the EU, spanning regulatory, technical, and market structure dimensions.

The most significant regulatory constraint is legal uncertainty about the property law status of a tokenised deposit claim — whether the token represents the deposit claim itself with full legal effect, or merely evidences a claim that continues to exist separately in the issuing bank's ledger, with the two potentially diverging in an insolvency scenario. This is the same legal uncertainty addressed in Part 4.6 of this response regarding token property law more broadly, and it applies with particular force to tokenised deposits because deposit claims carry specific statutory protections — deposit guarantee scheme coverage, priority ranking in bank resolution — that depend on the claim being correctly and unambiguously characterised as a deposit for the purposes of those protective regimes. Without legal certainty that a tokenised deposit retains full deposit status including DGS coverage, banks are reluctant to issue at scale and institutional users are reluctant to hold at scale.

A second regulatory constraint is the absence of a clear supervisory framework specifically addressing tokenised deposits as distinct from both traditional deposits and MiCA-regulated e-money tokens. Tokenised deposits fall into a regulatory space between CRD/CRR banking regulation and MiCA, and the consultation's own framing in section 4.5 acknowledges that the terms are not yet consistently defined across market participants, let alone across regulatory frameworks — this definitional ambiguity itself constrains institutional adoption, since compliance and legal teams cannot commit to a product category whose regulatory treatment is not yet settled.

The most significant market structure constraint is the absence of interoperable settlement infrastructure connecting tokenised deposits issued by different banks. A tokenised deposit issued by one bank that cannot settle atomically against a tokenised deposit or tokenised security issued through a different bank's or CSD's infrastructure provides only a fraction of the atomic settlement benefit described in Q75 — the benefit depends on interoperability across the market, not merely within a single institution's closed-loop system. This is the same infrastructure governance and interoperability concern addressed at length elsewhere in this response, and it applies directly to tokenised deposits as a specific instrument type.

A further technical constraint is the absence of a settled standard for connecting tokenised deposit infrastructure to central bank settlement — specifically TARGET Services — which is necessary for tokenised deposits to achieve true finality equivalent to traditional interbank settlement rather than remaining a bilateral or closed-network claim between the issuing bank and its clients.

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.

The regulatory issues identified in Q76 require action at three distinct levels, corresponding to the layered architecture proposed throughout this response.

At the civil law level, MiDA or an accompanying legislative instrument should provide explicit statutory clarification that a tokenised deposit, where issued by a credit institution and structured to represent the underlying deposit claim on a one-to-one basis without additional intermediation, retains full legal status as a deposit for all purposes including deposit guarantee scheme coverage and bank resolution priority ranking. This clarification removes the single largest source of institutional hesitation identified in Q76 and can be achieved through a targeted amendment to the DGSD and BRRD frameworks confirming that tokenisation of a deposit claim, properly structured, does not alter its legal character as a deposit. This is analogous to the functional approach — Model 3 in the consultation's own terminology — proposed for token property law more broadly in Part 4.6 of this response: the law should specify the legal consequences of tokenisation rather than requiring a wholly new instrument category.

At the supervisory framework level, the Commission should clarify explicitly, either in MiDA or in accompanying guidance, that tokenised deposits issued by credit institutions under the conditions described above fall outside MiCA's EMT and ART categories and remain governed by CRD/CRR and the deposit-specific protections referenced above, rather than requiring credit institutions to seek MiCA authorisation for a product that is functionally a deposit rather than a stablecoin. This removes the definitional ambiguity identified in Q76 and gives credit institutions a clear regulatory pathway distinct from the EMT issuance route already available to them under Art 58 MiCA.

At the infrastructure level, addressed more fully in the infrastructure governance sections of this response, MiDA should mandate interoperability standards for tokenised deposit settlement, requiring connection to Eurosystem settlement infrastructure — specifically Pontes as the bridge to TARGET Services — as a condition for any tokenised deposit product accessing the regulatory benefits of the clarified legal and supervisory status described above. This ensures that the atomic settlement benefit described in Q75 is achievable across the market rather than only within individual banks' closed-loop tokenised deposit systems, directly addressing the market structure constraint identified in Q76.

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

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

Please indicate what issues arise and what regulatory or supervisory action

may be 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.

Tokenised deposits raise several specific issues under the CRD/CRR framework that require regulatory or supervisory clarification before the product can scale with legal and prudential certainty.

The most direct issue concerns liquidity coverage ratio and net stable funding ratio treatment. Current CRR liquidity requirements were designed around traditional deposit behavioural assumptions — retail deposits are assumed to exhibit relatively low run-off rates under stress scenarios based on decades of observed behaviour, reflected in the outflow rate assumptions used in LCR calculations. A tokenised deposit that can be transferred instantly, 24/7, and potentially moved out of the issuing institution through on-chain rails faster than a traditional deposit could be withdrawn through conventional banking channels, may exhibit materially different — and potentially faster — run-off behaviour under stress than the behavioural assumptions embedded in current LCR and NSFR calibrations. Supervisors should clarify whether tokenised deposits require distinct outflow rate assumptions for LCR purposes, and if so, on what evidentiary basis those assumptions should be calibrated, given that the product is too new for the extensive historical behavioural data underpinning traditional deposit runoff assumptions to exist.

A second issue concerns large exposure and concentration risk treatment where tokenised deposits enable near-instantaneous large-scale transfers between institutions in a way that traditional deposit transfer processes, with their inherent settlement lag, do not. This could concentrate large exposure risk more rapidly than CRR's current monitoring and reporting cadence is designed to capture, particularly in a stress scenario where tokenised deposits migrate rapidly toward institutions perceived as safer.

A third issue concerns own funds treatment and risk-weighting of the technology infrastructure supporting tokenised deposit issuance. CRR's operational risk framework was not designed with the specific technology risks of DLT-based deposit tokenisation in mind — smart contract risk, key management risk for the tokenisation infrastructure, and interoperability risk with other tokenised instrument settlement systems. Clarification is needed on whether and how these risks should be reflected in operational risk capital requirements distinct from the general operational risk framework currently applied to traditional deposit-taking activities.

The appropriate regulatory action is for the EBA to issue guidance clarifying LCR and NSFR treatment of tokenised deposits, informed by monitoring data collected during an initial observation period — potentially through the safe harbour sandbox mechanism proposed in the five-layer framework in this response — before finalising permanent calibrations, rather than either applying traditional deposit assumptions untested against the product's actual behavioural profile, or imposing conservative assumptions that could render tokenised deposit issuance uneconomic before the product has had the opportunity to demonstrate its actual liquidity risk characteristics.

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

☒ Yes

☐

No

☐ Don't know / no opinion / not applicable

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

5000 character(s) maximum

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

Tokenised deposits raise a specific deposit insurance question that goes beyond the LCR and NSFR issues addressed in Q78: whether the deposit guarantee scheme coverage that attaches to the underlying deposit claim transfers cleanly to the tokenised representation, particularly in scenarios where the token can be transferred rapidly between parties or where the token's holder at the moment of a bank failure is not straightforwardly identifiable through traditional account-based records.

The core issue is that DGSD coverage calculations and payout mechanisms were designed around traditional account-based deposit records maintained directly by the credit institution, where the depositor's identity and balance are unambiguous at any point in time from the bank's own systems. A tokenised deposit that can be held, transferred, or potentially pledged as collateral through on-chain mechanisms introduces the possibility that the token's current holder — the party entitled to DGS payout in an insolvency — may not correspond straightforwardly to the bank's internal deposit ledger at the moment of failure, particularly if transfers can occur through on-chain rails that settle faster than the bank's own record-keeping systems can reconcile.

A second challenge concerns aggregate coverage calculation where a single depositor holds both traditional and tokenised deposits at the same institution, or holds tokenised deposits across multiple wallets that may not be automatically linked to a single identified depositor for DGS coverage aggregation purposes in the way traditional multi-account holdings at a single institution are aggregated.

The appropriate regulatory action is for EBA, in coordination with national deposit guarantee scheme administrators, to issue clarifying guidance confirming that DGS coverage calculation must be based on the underlying beneficial deposit claim as recorded in the credit institution's core banking systems, with the tokenised representation treated as a technical access and transfer mechanism rather than as an independent basis for determining DGS entitlement — ensuring that the bank's core ledger, not the on-chain token state, remains the authoritative source for DGS payout determination. This should be clarified before tokenised deposits scale materially, since retrofitting DGS payout mechanisms after a bank failure involving tokenised deposits already in circulation would be considerably more difficult than establishing the principle in advance.

4.6 Legal treatment of tokens

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

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

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

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

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

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

Question 80.1 Which of the following issues are most significant?

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

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

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

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

5000 character(s) maximum

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

Material legal uncertainty exists across most dimensions of token property law under national law, and the most significant gaps cluster around three related issues: recognising tokens as objects of property in the first place, third-party opposability of ownership, and treatment in insolvency, alongside the use of tokens as collateral.

Recognising tokens as objects of property is rated highest because it is the foundational question on which every other issue in this list depends. Where national law does not clearly recognise a token as capable of being an object of property at all, questions of transfer, collateral use, and third-party recognition cannot be resolved with certainty, since they presuppose a property law characterisation that may not exist. This is the issue the TVTG resolves directly through its functional definition of a token as a digital object capable of representing any right, as described in Part 4 of this response.

Third-party opposability — recognising ownership in a token towards third parties — is rated equally high because it is the specific legal mechanism that gives a property right its practical value. A right recognised only between the immediate parties to a transaction, but not opposable to a subsequent good-faith purchaser or to the token holder's creditors in an insolvency scenario, provides materially weaker protection than conventional property law typically affords to comparable off-chain assets.

Treatment in insolvency proceedings is rated equally high because it is the scenario in which legal uncertainty produces the most severe and irreversible consequences. A token holder who believed their holding was protected from an intermediary's insolvency estate, only to discover in the insolvency proceeding itself that national law did not clearly support that protection, has no remedy after the fact. This is precisely the intermediary risk the TVTG's constitutive registration model was designed to address.

Using tokens as collateral is rated high because collateral enforceability against third parties in a default scenario depends directly on the prior questions of property characterisation and third-party opposability — without certainty on those foundational issues, collateral arrangements rest on contractual workarounds rather than clear statutory footing.

This response does not differentiate materially between native and non-native tokens for most of the issues above — the property law uncertainty applies to both categories, though non-native tokens carry an additional layer of complexity concerning the relationship between the token and the off-chain asset it represents, addressed specifically in Part 4 of this response through the Model 3/Model 4 combination. Nor does the significance of these issues differ materially between crypto-assets and tokenised financial instruments — the underlying property law questions are the same regardless of which sectoral regime otherwise governs the instrument, which is precisely why a horizontal civil law solution rather than a sector-specific one is the appropriate response.

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.

The urgency ranking largely mirrors the significance ranking from Q80.1, with one notable divergence: using tokens as collateral is rated high urgency but one point below its significance rating, because sophisticated market participants can currently work around residual legal uncertainty through bespoke contractual arrangements and choice of governing law when structuring collateral transactions — a workaround that reduces the immediate urgency of regulatory action relative to issues where no such practical mitigant exists.

Treatment of tokens in insolvency proceedings, recognising tokens as objects of property, and third-party opposability of ownership are rated highest urgency because these three issues share a critical feature: the uncertainty only becomes apparent at the moment of crystallisation — an insolvency event, a competing claim, a third-party dispute — by which point it is too late for the affected token holder to restructure their position or seek an alternative protective arrangement. Unlike collateral use, where sophisticated parties can contract around uncertainty in advance, a retail token holder facing an intermediary's insolvency, or a purchaser facing a competing ownership claim, has no equivalent opportunity to have pre-arranged their way around the gap in national law. Regulatory action addressing these three issues should be prioritised precisely because the cost of inaction falls hardest on parties least able to protect themselves through private ordering.

Custody of tokens is rated moderate urgency rather than high, consistent with its moderate significance rating in Q80.1 — custody arrangements are already substantially addressed through MiCA's existing custody obligations for CASPs, even though the underlying property law characterisation of the custodied token remains less certain than the operational custody obligation itself.

The differentiation between native and non-native tokens in national law is rated lower urgency than most other issues because, while a useful clarification, the absence of an explicit statutory distinction does not itself prevent parties from structuring tokenised instruments today — it creates interpretive uncertainty rather than a binary blocking obstacle, unlike the property characterisation and insolvency treatment issues rated highest.

As with Q80.1, this response does not differentiate materially between native and non-native tokens, or between crypto-assets and tokenised financial instruments, in the urgency ranking — the same reasoning given in Q80.1 applies equally to the urgency dimension, since the urgency of resolving a given legal uncertainty depends on the severity of its consequences at crystallisation, which does not vary systematically by token type or instrument category.

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.

First: constitutive registration and third-party opposability. EU law should specify that registration of a token holder in the applicable distributed ledger is constitutive — it creates the right rather than merely evidencing it — and that this registration produces effects opposable to third parties, including subsequent purchasers and the holder's creditors in insolvency. This resolves the two highest-urgency issues identified in Q80.1 and Q80.2 simultaneously, since third-party opposability and recognition of tokens as objects of property both flow from a clear constitutive registration rule. The TVTG's Art 5 approach — where the TT Key holder has the power of disposal, and possession of that power is presumed to reflect the right of disposal — is the operative mechanism worth adopting.

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: an EU-level Kraftloserklärung procedure for irrecoverable token positions. As developed at length in Part 4 of the companion formal response, no existing EU framework — MiCA, the DLT Pilot Regime, or Germany's eWpG — provides a remedy for permanently lost private keys or otherwise dysfunctional tokens. This creates a structural risk of permanent fractured ownership with no legal cure, most acutely in the squeezeout context where a majority acquirer cannot achieve clean title against an irrecoverable minority position. This gap will materialise as a live legal crisis at the first attempted tokenised squeezeout transaction, and EU law should close it before that event occurs rather than after.

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: insolvency ring-fencing for token holder rights in intermediated custody chains. EU law should specify that a token holder's rights survive an intermediary's insolvency and are not available to the intermediary's general creditors, mirroring the protection already established for client assets under existing EU custody and safeguarding regimes but extended explicitly to tokenised instruments, where the technical characteristics of on-chain custody create interpretive questions that existing insolvency carve-outs were not drafted to anticipate.

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 specify to what other measure(s) you refer in your answer to question 81.2:

5000 character(s) maximum

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

The neutral rating for “other model” reflects the possibility of a hybrid approach combining elements of the 28th regime with targeted amendments to existing sectoral frameworks — specifically, extending the MiCA custody and safeguarding provisions to explicitly address token property law questions for crypto-assets within MiCA’s own scope, while relying on the standalone 28th regime Regulation for tokenised financial instruments and cross-sectoral consistency. This hybrid is rated neutral rather than agree because it introduces exactly the kind of regulatory fragmentation the 28th regime is designed to avoid — a token’s property law treatment would depend on which sectoral framework happened to apply to it, undermining the asset-neutral principle recommended in Q81.2 (d). It is noted here only as an acknowledgment that some stakeholders may propose this path, not as this response’s preferred outcome. The standalone 28th regime Regulation, applying uniformly to both crypto-assets and DLT financial instruments, remains the recommended approach.

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 28th regime is the correct instrument and rates strongly agree. It achieves the three priority objectives identified in Q81.1 — constitutive registration, third-party opposability, and insolvency ring-fencing — without requiring member states to amend their existing national property law codes, which is both politically more achievable and legally more precise than the alternatives. A 28th regime operates alongside national law as an optional, self-contained framework: parties who choose to issue or hold tokens under the regime obtain the erga omnes effects and legal certainty it provides, while national property law continues to govern non-tokenised assets undisturbed. This is precisely the approach the TVTG takes within Liechtenstein’s own legal system — it does not rewrite the Liechtenstein Civil Code (PGR), it adds § 81a as a specific supplementary regime for Wertrechte, operating alongside the general civil law rather than replacing it.

Full harmonisation of private law treatment of tokens rates rather disagree because it would require amending the core property law codes of 27 member states, an undertaking with a poor track record in EU legislative history precisely because national property law is deeply interconnected with each member state’s broader civil law system in ways that resist piecemeal EU-level amendment. Twenty years of failed attempts to harmonise the definition of a transferable security, referenced throughout the companion formal response, is the clearest illustration of why this path is unlikely to succeed for tokens either.

Partial harmonisation rates neutral — it is a plausible fallback if a 28th regime proves politically unachievable, but it produces a weaker outcome than a 28th regime because it still requires member states to individually

implement a common minimum standard within their own divergent civil codes, recreating some of the interpretive divergence risk a 28th regime avoids entirely.

A conflict of laws regime rates rather agree as a valuable complement to, rather than a substitute for, a 28th regime — addressed specifically in Part 4.7 of this response and in Q84 below. Even with a 28th regime in place, cross-border scenarios involving non-EU counterparties or non-EU registries will still require a conflict of laws rule to determine which law applies.

On the specific sub-questions: (a) A 28th regime has strong legal interoperability with national private law precisely because it is additive rather than substitutive — it does not require amendment of the Liechtenstein PGR, the German BGB, or the French Code civil, but operates as an optional supplementary framework parties can choose to use, in the same way the TVTG operates alongside rather than instead of the general Liechtenstein civil law. (b) Functional rules regulating the effects of recording an asset on-chain, rather than constitutive ownership rules dictating what property is, are preferable — this is the Model 3 approach recommended throughout this response, and it is the approach that allows the regime to remain interoperable with diverse national property law traditions rather than forcing a single continental or common law conception of ownership onto all member states. (c) The functional Model 3 approach is well suited to both native and non-native tokens, though non-native tokens additionally benefit from the Model 4 container logic addressed in Part 4 of the formal response, which specifically addresses the relationship between the token and the off-chain asset it represents. (d) The same 28th regime architecture can apply to both crypto-assets and DLT financial instruments, since the constitutive registration and opposability principles are asset-neutral — what differs between the two categories is the sectoral regulatory overlay (MiCA or MiFID), not the underlying property law mechanism, which is exactly the separation of concerns the service-based regulatory logic proposed throughout this response is designed to achieve.

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.

A functional Model 3 regime achieves strong legal interoperability with national private law precisely because it does not require amendment of any member state’s civil code. It operates as an optional, additive framework specifying the legal consequences of a ledger entry — who may exercise rights, and that those rights carry full third-party effect — without displacing or rewriting the underlying national conception of property. This is the approach the TVTG already demonstrates within Liechtenstein’s own legal system: § 81a SchIT PGR sits alongside the general Liechtenstein Civil Code (PGR) as a supplementary regime specific to Wertrechte, rather than replacing PGR provisions on ownership generally. A Model 3 instrument at EU level could operate the same way in every member state — a German court, a French court, or an Irish court would continue to apply their own general property law doctrine to non-tokenised assets, while applying the EU functional rule specifically to the ledger-recorded right.

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.

Functional rules are strongly preferable to constitutive ownership rules for the reasons given throughout this response. A constitutive rule would require the EU to define what ownership fundamentally is — a task that has defeated twenty years of attempts to harmonise even the narrower question of what constitutes a transferable security under MiFID. A functional rule sidesteps this by asking a narrower, more tractable question: given that a ledger entry has occurred, what legal consequences follow? This is precisely the TVTG’s approach — Art 5 TVTG does not attempt to redefine property; it specifies that the TT Key holder has the power of disposal over the token, and that this power of disposal is presumed to reflect the right of disposal. National courts can apply this functional consequence without needing to reconcile a new EU concept of ownership with their own domestic property law tradition.

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.

Model 3's functional approach is best suited to native tokens, where it operates as a complete and sufficient legal answer on its own — the functional rule specifying the consequences of ledger registration fully resolves the legal status of the right, since there is no separate off-chain asset requiring reconciliation. For non-native tokens, Model 3 remains a necessary component of the framework but is not sufficient by itself; it must be paired with Model 4's container logic to address the specific relationship between the on-chain token and the off-chain right it represents. This is why this response recommends Model 3 as the general framework architecture applicable to all tokens, while treating Model 4 as the additional instrument layer required specifically for non-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.

The core functional rule under Model 3 does not itself need to differ between crypto-assets and DLT financial instruments, or between token types generally — the consequence of ledger registration should be the same regardless of what right the token represents. What differs is not the Model 3 rule itself but the additional legal layer required on top of it: native tokens require nothing further, while non-native tokens require the Model 4 container mechanism addressed separately in the MODEL 4 answers. The uniform "No" answer here reflects that Model 3 alone is not the complete solution for every token type, not that Model 3's own functional logic varies by token type.

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.

Model 3 is recommended as the general framework architecture for EU token property law because it resolves the classification and harmonisation problems that have defeated prior EU efforts without requiring amendment of national civil codes. The functional approach — specifying the legal consequences of a ledger entry rather than defining ownership as a constitutive matter — allows a single EU instrument to operate consistently across all 27 member states' divergent property law traditions, exactly as § 81a SchIT PGR already operates alongside, rather than in place of, the general Liechtenstein Civil Code.

Liechtenstein's TVTG framework is the operating proof of concept. Registration of a token holder in the applicable TT system is constitutive of the right and produces effects opposable to third parties, achieved through a functional statutory mechanism rather than a redefinition of the underlying concept of ownership. Art 5 TVTG specifies that the TT Key holder has the power of disposal over the token, with that power of disposal presumed to reflect the right of disposal — a functional consequence a national court can apply without needing to reconcile a new EU-level ownership doctrine against its own domestic tradition. This framework has operated without incident since 2020, demonstrating that the functional Model 3 approach is not merely theoretically sound but operationally proven.

Model 3 is directly sufficient for native tokens, where no off-chain asset exists and the ledger entry is the complete legal life of the right. For non-native tokens, Model 3 remains necessary but must be paired with Model 4's container logic, addressed separately in the MODEL 4 answers, to resolve the specific relationship between the token and the off-chain right it represents. This combination — Model 3 as the universal framework, Model 4 as the additional layer for non-native tokens — is the structure this response recommends be adopted as a 28th regime, as elaborated in Q81.2.

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's container logic achieves strong legal interoperability with national private law for the same structural reason as Model 3 — it does not require amendment of national civil codes. It adds one further degree of interoperability specific to non-native tokens: because Model 4 treats the token as a legal container for rights that continue to be defined by whatever body of law would otherwise govern them off-chain — company law for equity rights, property law for rights in physical objects, intellectual property law for licensing rights — it does not require the EU to harmonise the substance of those underlying rights at all. It only needs to specify that transfer of the token transfers the rights it carries. This is a narrower and more achievable interoperability claim than attempting to harmonise, for example, what a share actually is across 27 member states' company law regimes.

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.

As with Model 3, a functional approach is preferable for Model 4. The container logic itself is inherently functional: the law does not need to constitute new rights, it specifies that the token, as container, carries whatever rights are attached to it, and that transferring the container transfers those rights. This is the express language of the recommended approach — the token as legal carrier of rights, ensuring the law's role is limited to specifying the legal consequence of the transfer, not to defining the underlying right.

A constitutive approach to Model 4 would require the EU to define, as a matter of substantive law, what the underlying right actually is for every category of asset a token might represent — equity, debt, physical property, intellectual property, membership rights. This would recreate exactly the harmonisation burden Model 3's functional approach was designed to avoid, except applied to a wider and more heterogeneous set of underlying rights. The functional approach instead leaves the substance of each underlying right to whatever body of law already governs it — company law for equity, property law for physical assets — and confines the EU rule to the single, narrow question of what happens to that right when the container representing it is transferred on a ledger.

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 specifically and exclusively suited to non-native tokens. Its entire purpose is to resolve the relationship between an on-chain token and an off-chain right it represents — a question that does not arise for native tokens, which have no off-chain counterpart requiring reconciliation. Model 3 is the appropriate framework for native tokens; Model 4 is the necessary complement specifically where a token is non-native.

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.

Model 4 should not be applied uniformly to all token types because it is only necessary for non-native tokens in the first place — applying container logic to a native token would be applying an unnecessary additional legal layer to an asset that requires none. Where Model 4 is applied, what needs to differ by token type is the body of underlying law the container refers to: for tokenised equity, company law continues to govern matters such as voting rights and dividend entitlement, with the token only carrying and transferring those rights; for tokenised real-world assets, the Physical Validator role referenced elsewhere in this response becomes necessary to certify correspondence between the on-chain representation and physical reality, a requirement that has no equivalent for tokenised financial claims with no physical component.

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.

Model 4 is recommended as the necessary complement to Model 3 specifically for non-native tokens — those representing an off-chain right rather than an asset that exists only on-chain. Its container logic treats the token as a legal carrier of rights stemming from an underlying asset: the law defines the token as a legal object that does not itself create new rights, but represents whatever rights are attached to the underlying asset, such that transfer of the token on the ledger legally transfers ownership of those rights.

This resolves the “two assets” problem identified in the consultation’s own framing of non-native tokenisation — the risk that tokenisation, done without a clear legal answer, produces the simultaneous existence of the token and the off-chain asset as separate legal objects with potentially divergent legal consequences. Model 4 closes this gap by making clear that the token is not a second, competing representation of the right but the sole legal carrier of it once tokenisation occurs, with transfer of the token operating as transfer of the underlying right itself.

The TVTG’s Physical Validator role, inspired by this same container logic, provides the operational proof of concept for the physical-asset variant of the Model 4 problem: where a token represents rights in a physical object, the Physical Validator certifies correspondence between the on-chain representation and physical reality, ensuring the container’s contents are accurately reflected on-chain at all times. This mechanism has operated within the TVTG framework since 2020 without producing the disputes or legal uncertainty that critics of tokenised real-world assets have anticipated.

Model 4 is not a substitute for Model 3 but a necessary addition to it, applicable only where a token is non-native. For native tokens, Model 3 alone is complete; Model 4 adds no value and should not be applied, since

there is no off-chain right requiring a container mechanism. The combination recommended throughout this response — Model 3 as the universal framework, Model 4 as the additional instrument layer specifically for non-native tokens — reflects this division of labour and is the structure proposed for adoption as a 28th regime in Q81.2.

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 most significant divergence across member state national laws, drawn from the jurisdictions this response has direct familiarity with, concerns whether registration in a distributed ledger is treated as constitutive of ownership or merely evidentiary of a right that continues to exist independently under conventional property law rules.

Liechtenstein represents the clearest example of a constitutive approach. Under the TVTG and § 81a SchlT PGR, a token is defined as a legal container capable of representing any right, and registration of a token holder in the applicable TT system is constitutive — it creates the right rather than merely evidencing a right that exists elsewhere. The Faustpfandprinzip, which in general Liechtenstein civil law requires physical possession transfer to perfect a pledge, is expressly disapplied for tokenised rights, allowing a possessionless pledge by registration alone. This is a deliberate and comprehensive legislative choice to make the ledger entry itself legally determinative.

Germany's approach under the eWpG moves in a similar direction but through a narrower and more asset-specific mechanism. The eWpG permits securities to be issued as electronic securities recorded in a crypto securities register, treating the register entry as replacing the traditional physical certificate for the specific category of instruments the law covers. This is closer to Model 2 — an immobilisation and substitution logic — than to the TVTG's broader Model 3/Model 4 functional approach, since the eWpG was drafted specifically for securities that would otherwise require a physical certificate, rather than as a general-purpose token property law framework capable of covering native crypto-assets that never had an off-chain form.

France's approach, developed initially through the PACTE law and subsequent DASP-era provisions, has taken yet a different structural path, treating certain tokenised financial instruments through an inscription mechanism analogous to but distinct from traditional dematerialised securities registration, without adopting either the TVTG's comprehensive functional definition or the eWpG's narrower electronic securities register model.

The practical consequence of this divergence is that economically identical tokenised instruments carry materially different legal consequences depending solely on the jurisdiction of issuance — a token issued under the TVTG has clear, constitutive, third-party-opposable legal effect from the moment of ledger registration; the same economic instrument issued under a legal system that has not addressed the question at all continues to depend on general civil law principles that were not drafted with tokenisation in mind and that leave open exactly the uncertainties catalogued in Q80.1 and Q80.2. This divergence is the direct evidence for the recommendation, developed throughout this response, that a 28th regime built on the TVTG's proof of concept is both necessary and achievable, since it demonstrates that a comprehensive, workable framework already exists and has operated without incident since 2020, while other member states either have no equivalent framework at all or have addressed only a narrow subset of instruments through asset-specific legislation.

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 laws rules are not sufficiently clear in their application to tokens because the existing framework was built around connecting factors — the location of persons, offices, physical assets, or the place where a contract was concluded — that presuppose a stable, geographically locatable link between a legal relationship and a specific jurisdiction. A token recorded on a distributed ledger frequently has no such stable geographic link: validators may be distributed across many jurisdictions, the ledger itself may have no single physical location, and the parties to a transaction may transact pseudonymously without a readily identifiable domicile.

The Financial Collateral Directive and Settlement Finality Directive, referenced in the consultation's own framing of this question, illustrate the gap directly. Both instruments contain targeted conflict of laws rules, but those rules are calibrated for financial instruments held through conventional intermediated custody chains with identifiable account-keeping institutions in identifiable jurisdictions. Where a token does not fall within FCD or SFD scope at all — as is the case for many crypto-assets — no equivalent conflict of laws rule exists. Where a token might arguably fall within scope, the existing connecting factors do not translate cleanly, since a distributed ledger typically has no single “relevant account” or “relevant intermediary” of the kind those instruments were drafted to identify.

This is precisely the gap the UNIDROIT Principles on Digital Assets and Private Law identify when noting that the usual connecting factors have less of a useful role for DLT financial instruments and crypto-assets, and that the correct approach is to identify connecting factors specific to the technology rather than retrofitting factors designed for conventional intermediated holding structures. The absence of an EU-level response to this gap leaves cross-border tokenised transactions dependent on national courts each applying their own conflict of laws analysis by analogy to a technology those rules were never designed to address, producing exactly the kind of unpredictable and inconsistent outcomes that a harmonised EU conflict of laws rule for tokens would resolve.

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 ranking applies the constitutive registration logic developed in Q80–82: the connecting factor should identify the register, not chase the asset. First rank goes to the law specified in the rules or principles of the system on which the token is recorded — party autonomy exercised at system level, ascertainable ex ante by every participant, producing uniform treatment of all tokens on the same system. This is the account-agreement approach of the Hague Securities Convention adapted to registers. PROPA ranks second as the operative fallback where system rules are silent: an identifiable administering authority is stable and publicly ascertainable in a way no other residual factor is. The seat of the DLT system operator ranks third — reliable for permissioned systems, degrading for permissionless ones. The issuer’s supervising state and place of establishment rank fourth and fifth: workable where an issuer exists, but a conflict of laws rule for proprietary aspects must also govern issuerless tokens, so issuer-based factors cannot carry primary weight.

The unranked factors are deliberately excluded. Law specified in the individual token invites instrument-by-instrument fragmentation within a single system. The state supervising the register duplicates the substance already captured by the first and second ranks — a supervised register speaks through its own rules or its administering authority, and ranking the same locus twice double-counts it. The technology provider’s supervising state is one step removed from the legal relationship the rule must capture. PREMA is excluded on principle: key custody relocates instantly and fragments under multi-signature arrangements, and a connecting factor that moves when a custodian moves imports operational volatility into property law. On scope: the rule should apply erga omnes, designating the applicable law whether or not it is that of a Member State, consistent with the framework architecture recommended in Q80–82.

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.

One further legal certainty issue not addressed above concerns the treatment of tokens as collateral specifically in cross-border repo and securities financing transactions, where the interaction between a Model 3/Model 4 token property regime and existing EU collateral frameworks — the Financial Collateral Directive in particular — has not been fully worked through. The FCD’s close-out netting and collateral enforcement provisions assume a conventional intermediated holding structure with an identifiable account-keeping institution; a 28th regime for tokens would need explicit provisions clarifying how FCD-equivalent close-out and enforcement rights apply to token-based collateral, rather than leaving this to be inferred from the general property law rule alone. Without this clarification, institutional counterparties may remain reluctant to accept tokenised instruments as collateral in cross-border repo transactions even after the core property law uncertainty addressed in Q80 through Q84

has been resolved.

A second issue concerns the treatment of tokens in the context of succession and inheritance law, which operates under a separate EU private international law regime — the Succession Regulation — distinct from the property law and conflict of laws questions addressed above. Where a token holder dies, the interaction between the Succession Regulation's own connecting factors (habitual residence of the deceased, in the general case) and the token-specific connecting factors proposed in Q84.2 has not been addressed in this consultation and would benefit from explicit clarification, particularly given that the Kraftloserklärung mechanism proposed in Part 4 of this response for irrecoverable positions is itself partly designed to address the scenario of a deceased holder without accessible succession documentation — a scenario that sits at the intersection of the property law framework recommended in this response and the existing EU succession law framework, and which would benefit from the two frameworks being drafted with explicit awareness of each other rather than developed in isolation.

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.

This response has focused on questions where direct professional experience — advisory work in the Liechtenstein–Switzerland corridor across tokenised securities issuance, reserve asset structuring, and MiCA-adjacent regulatory strategy — offers a specific, evidenced contribution. Three further points fall outside the consultation's structured questions but merit attention.

First, on sequencing: the positions in this response — service-based regulation, the liability capacity threshold for DeFi, a 28th regime for token property law, mandatory infrastructure interoperability — are interdependent in ways the question-by-question structure does not surface. Service-based regulation is considerably weaker without the property law certainty a 28th regime would provide, since service obligations ultimately depend on identifying who holds what right in what token. Mandatory interoperability is most effectively legislated as primary law before private infrastructure providers achieve enough market share to make imposing it politically costly. MiDA should be designed and sequenced as a single architecture, not resolved question by question and assembled afterward.

Second, a structural tool. Several recommendations in this response — the MiCA/MiFID boundary in Q1 and Q2, tokens as objects of property in Q80–82, and the economic substance test underlying the interest prohibition recommendation in Q20 — share a common logic this respondent has formalised separately as an open methodology, the Inheritance Test, published under CC BY 4.0 with no trademark or commercial restriction, freely available for adaptation by the Commission or ESAs. Its central proposition: a wrapper inherits the properties of its underlying and cannot bestow properties the underlying lacks, assessed through three gates — economic (does the instrument transform liquidity, risk, or marketability), legal (in-rem right or contractual claim), and jurisdictional (does the registration layer deliver recognised finality and an identifiable ownership locus). The methodology is wrapper-agnostic, applying identically to CSD book-entries, manual registers, and tokens regardless of underlying technology or label.

The relevance is structural: each gate maps to a live question this consultation raises without a shared

organising framework — the economic gate to the interest prohibition and reserve composition questions in Part 2, the legal gate to the MiFID boundary in Part 1 and token property law in Part 4, the jurisdictional gate to equivalence, multi-issuance, and conflict of laws questions in Parts 2 and 4. A classification principle organised around what a constraint actually is — economic, legal, or jurisdictional — rather than around asset taxonomy, may offer a reusable diagnostic generalising across the many bespoke classification questions this consultation poses individually. Full documentation is available at juliangretzinger.com/inheritance-test for the Commission's reference, without restriction on use or adaptation.

Third, on process: this respondent submitted a response to the Commission's 2020 consultation on an EU crypto-asset framework, identifying the TVTG as the appropriate model for token property law, flagging global stablecoin monetary sovereignty risks, and raising the need for harmonised civil law treatment of token transfers. Six years and one full regulation later, none of these positions has been substantively addressed, even as market and regulatory developments have confirmed each of them. This is not a complaint but a data point: the analytical case did not require six years of hindsight to make in 2020. The Commission should consider whether the MiDA review can commit to a decision-forcing mechanism — a defined date by which the architectural questions in Part 4, in particular, will be resolved — rather than repeating that six-year pattern.

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

5b09d00e-cbee-4fb5-8e62-61747db46fd7/MiDA-consultation-response-Gretzinger_27Aug2026.docx

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 \(https://finance.ec.europa.eu/digital-finance/crypto-assets_en\)](https://finance.ec.europa.eu/digital-finance/crypto-assets_en)

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