

REVIEW OF THE MARKETS IN CRYPTO-ASSETS REGULATION (MiCA)

BNP Paribas response to the European Commission's targeted consultation

BNP Paribas thanks the European Commission for the opportunity to contribute to this consultation. We strongly believe in the transformative potential of distributed ledger technology and we actively support the tokenisation of financial markets, which can make settlement faster and safer, reduce operational frictions and open new ways of financing the European economy. MiCA, which covers some aspects of the transition to DLT, has given the EU a clear framework ahead of most other jurisdictions. Our response seeks to build on this achievement through targeted adjustments. It is guided by four principles:

- **technology neutrality**: same activity, same risk, same rules. DLT is a recording and transfer technology, not a new asset class, and should not change the regulatory treatment of an instrument;
- **a preserved two-tier monetary system**: central bank money remains the settlement anchor and commercial bank money, created through lending, finances the economy. New forms of digital cash must be assessed against their impact on this architecture;
- **protection of European holders**: the assets backing MiCA-regulated tokens held by Europeans, and the liquidity attached to them, should remain in the Union and under the control of EU authorities;
- **openness**: Europeans should have access to global instruments, under conditions that ensure their protection and preserve the EU sovereignty.

Scope and classification

Crypto-assets that qualify as financial instruments should remain under MiFID II and the sectoral regulation. This principle needs to be backed by legal certainty, as classification could vary across Member States. We call for a binding, harmonised classification methodology adopted by the Commission, complemented by ESMA opinions for cross-border borderline cases. The most difficult cases include so-called “hybrid tokens”, “wrapped tokens” and “deposit tokens”, whose boundary with e-money and EMTs must be clarified.

Stablecoins

Role: we see stablecoins as a useful complement to existing payment rails, in particular for cross-border payments, crypto-asset trading and programmable finance, rather than as a mainstream means of payment within the EU or a settlement asset for large-value transactions. They do not fully meet the criteria of singleness, elasticity and integrity: the core settlement layer of tokenised markets should rely on wholesale central bank money and tokenised commercial bank money. A large-scale shift of deposits into stablecoins would also jeopardise banks' capacity to lend. Stablecoins should remain safe payment instruments, not a store of value, and we therefore support **maintaining the prohibition of any form of direct and indirect remuneration**.

Reserves: the 30% and 60% bank deposit floors concentrate counterparty risk on banks and create a contagion channel in both directions. We propose instead a risk-based allocation to a diversified portfolio of high-quality liquid assets (HQLA) with a maximum maturity of three months, exposure limits per bank (20%, reduced to 10% above EUR 1 billion outstanding) and eligible instruments issued by entities registered in the EU to keep liquidity in Europe. E-money institutions issuing EMTs should also have access to limited-purpose, non-remunerated central bank accounts for part of their reserves, as in the US. Such access would secure redemptions under stress and reduce depeg risk. By contrast, access to remunerated central bank accounts would substantially interfere with monetary policy. For their part, subject to an impact assessment, banks issuing EMTs should segregate reserve assets or issue them through a separate legal entity with segregation of reserve assets, so that all holders have the same level of protection.

Prudential framework and crisis management: own funds requirements for non-bank issuers are broadly well calibrated; an intermediate category could be considered for issuance vehicles backed by EU banking groups. A proportionate resolution regime should be introduced for significant e-money institutions issuing EMTs, without access to lender-of-last-resort facilities.

Redemption: a clear redemption timeframe should apply to all issuers. Redemption fees could be permitted, as in the United States, provided they are disclosed in advance, limited to actual costs and not introduced or increased in times of stress.

Multi-issuance: a prohibition would push activity offshore and deprive euro stablecoins of global reach. These schemes should instead be explicitly regulated: reserves held in the EU backing European holdings at least 1:1 at all times, ongoing identification of holders, highly frequent reporting and rebalancing between issuing entities. Direct redemption against the EU entity should be reserved to clients of EU-authorised CASPs; holders in unhosted wallets would be excluded unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union. The significance assessment should take multi-issuance into account, through a lower capitalisation threshold or an assessment at consolidated level or a qualitative criterion in its own right, so that these schemes are supervised by the EBA. Authorisation could be conditional on reciprocity and on binding supervisory cooperation guaranteeing the mobility of reserves in all circumstances.

Equivalence: Europeans need access to global stablecoins. This access should however go through regulated multi-issuance rather than full equivalence, which would make European holders dependent on foreign supervisors able to ring-fence liquidity in a crisis. An assessment of the third-country framework may be one condition of authorization but not a passport or a substitute for MiCA requirements.

Crypto-asset service providers

The prudential regime of CASPs should be aligned with the investment firm framework and minimum capital set accordingly. Retail clients should benefit from an appropriateness test, and large multi-functions crypto-native groups should be subject to group-level oversight. Access to global liquidity should remain possible through EU-authorised CASPs; reverse solicitation should be preserved but strictly enforced, even if challenging in practice, and the Union should guard against liquidity leakage outside the EU.

Beyond the current scope of MiCA

Tokenised deposits bring commercial bank money on-chain with all its features: convertibility at par, no depeg risk, regulatory oversight and, unlike fully prefunded stablecoins, the elasticity that allows banks to keep financing the economy. Their strongest use cases are wholesale: atomic delivery-versus-payment settlement of tokenised securities, intraday liquidity and treasury management, in combination with wholesale central bank money. Four actions would unlock their development:

- **legal certainty:** a harmonised EU framework for deposit tokens issued directly on DLT and circulating between participants, with EBA guidance on the risk of requalification as e-money or EMT and on the enforceability of transfers;
- **prudential neutrality:** a revision of the Basel standard as implemented in the EU, so that tokenised deposits sharing the characteristics of traditional deposits receive identical liquidity treatment and are no longer subject to the infrastructure risk add-on;
- **deposit guarantee:** an explicit confirmation that deposit guarantee coverage applies on identical terms, whatever the recording technology;
- **infrastructures:** common standards and interbank conversion mechanisms and, on the Eurosystem side, extended operating hours, eligibility of DLT-based assets as collateral and availability of central bank money on-chain, building on Pontes and Appia.



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**CONSULTATION DOCUMENT
TARGETED CONSULTATION ON THE REVIEW OF REGULATION ON THE
MARKETS IN CRYPTO-ASSETS (MICA)**

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudice the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

You are invited to reply **by 31 August 2026** at the latest to the **online questionnaire**

available on the following webpage:

https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-review-mica-regulation_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.**

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

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.

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.

Responses authorised for publication will be published on the following webpage:

https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-eu-venture-and-growth-capital-funds-reform_en#contributions

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-mica-review@ec.europa.eu.

INTRODUCTION

[Regulation 2023/1114 of 31 May 2023 on markets in crypto-assets¹ \(MiCA\)](#), 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 EBA²](#).

With this consultation, the Commission services therefore:

- seek to respond to the request in Article 142 of MiCA³ 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 MiCA⁴, 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

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 Council⁵, continue to be governed by sectoral 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

If the answer is “Yes”, 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

If the answer to the previous question is “No” please explain your response and suggest any policy actions for clarification if needed.

MiCA's perimeter should not extend to instruments already captured by the existing financial services acquis. MiCA was designed to fill a regulatory gap, not to become a technology-defined regime superseding sectoral legislation. Where a token is, in substance, a financial instrument, MiFID II/MiFIR, MAR, the Prospectus Regulation and CSDR must continue to apply, together with the MMFR, the Financial Collateral Directive and the Settlement Finality Directive where relevant. DLT is a recording and transfer technology, not a distinct asset class: a security, a derivative or a fund unit keeps its economic substance and its risk profile when it is issued or recorded on a ledger. Consistent application of the "same activity, same risk, same rules" principle is the only approach compatible with technology neutrality and the coherence of Union law. Drawing economically

equivalent instruments into a separate perimeter would fragment the acquis, create duplicative or conflicting requirements and open the door to regulatory arbitrage. Conversely, classification uncertainty should never allow a tokenised product or service to fall between the two regimes and escape regulation altogether.

Maintaining the exclusion of financial instruments is necessary but not sufficient. The notion of transferable security remains anchored in national law, so that the same token structure may be treated as a financial instrument in one Member State and as a MiCA crypto-asset in another. Also, genuine boundary cases persist, notably tokenised money market fund units and deposit tokens (see our replies to Questions 2 and 7). Lastly, beneath regulatory classification lies a private law layer, including the recognition of DLT registers and the application of the Financial Collateral Directive as a minimum harmonisation instrument, which also differs across Member States. This uncertainty weighs on product design, distribution, accounting and compliance, and exposes firms to legal risks: applying the wrong regime, applying two regimes cumulatively, or facing contradictory requirements. For credit institutions developing tokenisation activities, this is among the most acute sources of legal and operational risk.

We therefore recommend an explicit legal basis empowering the Commission to adopt a binding, harmonised methodology for determining the applicable regime where a digitally represented asset displays features of both a financial instrument and a MiCA crypto-asset, and, as a complement, the possibility for ESMA to issue opinions on borderline or hybrid assets intended to be offered on a cross-border basis within the Union, supported by Q&As and case studies. These clarifications should be achieved without any fundamental change to the definition of financial instrument in MiFID II, which would have far-reaching consequences across the whole acquis.

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.

The ESMA guidelines and the joint ESA classification test have brought an operational framework for determining whether a crypto-asset falls within the scope of MiCA. The case-by-case approach they embody remains appropriate, as it allows each asset to be assessed according to its specific features and avoids a rigid one-size-fits-all grid. However, they have only partially reduced uncertainty. As non-binding instruments applied against divergent national definitions of financial instruments, they cannot guarantee convergent outcomes: the same token structure can still be classified differently depending on the Member State.

The most persistent borderline cases, developed in our reply to Question 7, are: hybrid tokens combining payment, investment, utility and store-of-value functions, including tokens issued as utility tokens that later acquire financial features; tokenised fund interests and instruments with money-market-like features; liquid staking tokens and wrapped, synthetic or mirrored structures; tokens carrying governance or profit rights; and deposit tokens, i.e. bank liabilities issued natively on DLT and transferable between participants, whose boundary with e-money and EMTs is not settled.

Leaving these cases unresolved produces duplicative or contradictory treatment for issuers, dual-licensing expectations for trading platforms handling both MiFID instruments and MiCA assets, and competitive distortion between economically equivalent products depending on their legal packaging. For deposit tokens, the stakes are particularly high: the qualification determines whether the instrument falls under the banking framework (CRR/CRD, deposit guarantee schemes) or under Title IV of MiCA, with entirely different prudential, reserve and redemption consequences for what is economically a claim on a credit institution.

We suggest the adoption of a harmonised, enforceable classification methodology, developed by the

Commission, with three principles: substance over form, a single prevailing regime per instrument, and uniform interpretation across Member States. It could be complemented by a targeted refinement of the ESMA guidelines, for instance on ARTs referencing assets that are themselves financial instruments. The objective should be to reduce legal uncertainty and regulatory arbitrage while preserving the *acquis*.

1.2. Transparency rules and ex post supervisory control regime

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)?

Several categories continue to present practical classification challenges and would benefit from further supervisory guidance, practical examples, Q&As and anonymised case studies. In our experience, the most difficult are the following.

Hybrid tokens remain the most complex category. Their legal qualification depends on the specific rights attached to the token and requires a careful case-by-case assessment. The difficulty increases where a token was legitimately classified as a utility token at issuance but later acquires the characteristics of a financial instrument through governance changes, additional rights or an evolving economic function; the guidelines do not address such reclassification over the life of the token. Tokens carrying governance or profit rights raise similar questions.

Tokenised money market instruments are a genuine boundary case, all the more important as tokenised money market fund units are expected to be used as collateral and settlement assets. In our view, they should retain the treatment of the underlying fund unit, provided the applicable legal, liquidity and prudential standards continue to be met.

Liquid staking tokens, wrapped and synthetic exposures: it remains unclear whether liquid staking arrangements may qualify as units in collective investment undertakings, particularly in decentralised protocols with no identifiable manager or investment strategy. Wrapped, mirrored and synthetic structures raise the question of whether the holder has rights over the underlying asset or only a claim against the wrapping entity, which affects both classification and investor protection.

Deposit tokens: tokenised deposits that simply mirror an existing account rest on settled ground. By contrast, deposit tokens, i.e. bank liabilities issued directly on DLT and circulating among whitelisted participants, across several banks, raise uncertainty. It may be argued that it meets the definition of e-money or EMT, so that an instrument economically identical to a deposit could become subject to Title IV of MiCA rather than to the banking framework and deposit guarantee schemes. Clarification is needed on the conditions under which a deposit token remains a deposit excluded from MiCA, on the risk of requalification as e-money or EMT, and on the legal mechanism ensuring an irrevocable and enforceable transfer (see our replies to Questions 76 to 79).

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?

For each vision below, please indicate on a scale of 1 to 5 where 1 = Strongly disagree 2 = Rather disagree 3 = Neutral 4 = Rather agree 5 = Strongly agree

	1	2	3	4	5
A mainstream digital means of payment for retail transactions within the EU	X				
A mainstream digital means of payment for wholesale transactions within the EU	X				
A complement to existing payment instruments, used mainly in specific use cases especially in international, cross-border payments					X
A core infrastructure layer for the digital economy and tokenised financial markets especially for settlement		X			
A niche or transitional product, eventually displaced by other forms of digital money (e.g. CBDCs or commercial bank money innovations)			X		
No clear long-term role can be identified at this stage		X			
Others					

If your answer is “Others”, please elaborate.

Our assessment starts from a key principle: the migration of financial services to DLT must preserve the two-tier monetary system. Central bank money provides the ultimate, risk-free settlement asset and the anchor of trust. Commercial bank money, created through lending, provides the elasticity of the money supply that finances the economy. Credit intermediation by banks remains central for the

financing of the economy and to growth, through the multiplier effect, and any framework for new forms of digital money should be assessed against its impact on this architecture.

Stablecoins do not replicate these features. As the BIS underlined in its 2025 Annual Economic Report (The next-generation monetary and financial system), they do not fully satisfy the three foundational criteria of money, namely singleness, elasticity and integrity. As digital bearer instruments traded on secondary markets, they cannot guarantee singleness, since they may trade away from par. Their issuance requires full prefunding, which prevents any elastic expansion of supply through credit; this is, in our view, a structural disadvantage, because a payment instrument based on fully prefunded reserves which are invested in government bonds and other short term placements does not contribute efficiently to the financing of the economy. In addition, the business model of issuers, which relies heavily on the yield of reserve assets, becomes fragile in low-interest rate environments, further constraining supply precisely when elasticity is needed.

For these reasons, we see stablecoins as a useful payment instrument to complement existing payment rails in specific use cases, developed in our reply to Question 10, rather than as a mainstream means of payment within the EU or as a settlement asset for wholesale transactions. For large-value transactions, participants naturally seek the settlement asset carrying the least possible risk, without any residual depeg risk. The core settlement layer of tokenised markets should rely on a wholesale CBDC and on tokenised commercial bank money, that are always convertible 1:1 at any time, with regulated stablecoins as a complementary payment rail for smaller-value transactions or settlement instrument for smaller digital asset transactions on DLT networks where neither commercial bank money nor central bank money is available.

It also follows from this analysis that stablecoins should be designed and regulated as secure payment instruments and should not become a store of value. This is why we support maintaining the prohibition of remuneration, as explained in our reply to Question 20.

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 on a scale of 1 to 5 how beneficial stablecoins would be for EU users:

1: Not Beneficial, 2: Moderately Beneficial 3: Neutral 4: Beneficial 5:Very Beneficial

Use Case	1	2	3	4	5
International payments (non-EU cross-border remittances or transfers)				X	
Intra-EU payments (domestic and EU cross-border payments)	X				
Crypto trading and liquidity provision				X	
Retail payments - Person to Person		X			
Retail payments – Person to Business (POI payment to merchants including e-commerce)		X			
Retail payments - Business to Business			X		

Use Case	1	2	3	4	5
Wholesale payments (between financial institutions)	X				
Settlement of tokenised financial instruments (e.g., digital bonds, securities)		X			
Corporate treasury management			X		
Access to programmable or smart contract-based financial services (DeFi applications)				X	
Provision of financial services in underserved regions in the EU				X	
Others				X	

If your answer is “Others”, please elaborate.

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

These ratings reflect where stablecoins bring value compared with existing or emerging alternatives.

The strongest use case is cross-border payments outside the EU, in particular small-value transfers and remittances. Availability on public blockchains gives global transferability without relying on correspondent banking chains, with a cost structure that is especially attractive for small amounts and micropayments. Adoption is also strong in countries with weak currencies and high inflation, where stablecoins serve as a de facto store of value; in most of these markets, demand concentrates on USD-denominated tokens. Stablecoins have also been very successful as a complement to crypto-asset trading, and they enable direct peer to peer transfers without intermediaries.

The widespread use of stablecoins for payments within the EU is less likely, as very efficient payment means are already available in classic payment systems and banks work already to provide commercial bank money on DLT. For domestic retail payments, stablecoins are not very competitive against SEPA Instant, cards and emerging European solutions such as EPI/Wero, which already deliver instant, inexpensive and widely accepted payments.

Wholesale payments and settlement: stablecoins are not suited for large-value payments nor for the settlement of large value digital asset transactions (Delivery vs Payment). For such transactions the parties seek the least risky payment and settlement mean available; the residual risk of depeg, together with the market-wide effects that large purchases and disposals of reserve assets could produce, makes stablecoins inadequate for this purpose.

The settlement of tokenised financial instruments is a real use case, for instance for tokenised money market funds, but it should in our view remain focused on smaller-value transactions, with the wholesale CBDC and tokenised commercial bank money as the core settlement assets.

However, it is likely that wCBDC and tokenised commercial bank money will not be available on as many DLT networks as stablecoins. Therefore regulation must ensure that stablecoins are backed

with high quality short term assets, to keep risks as low as possible.

From an asset management perspective, investor preferences should not be unduly restricted, and therefore a stablecoin settlement option for trade of tokenised investment funds would be offered to investors, notably retail ones.

Access to programmable or smart contract-based financial services : it is worth noting that the value of programmability is not confined to decentralised finance: programmable and conditional ('smart-contract') payments, automated lifecycle management and settlement triggers are equally relevant in regulated, intermediated contexts. In addition, risks related to DeFI are still not properly assessed, controlled and regulated.

Risks

A rapid and widespread adoption of stablecoins would raise material challenges that must be anticipated: erosion of bank deposits, risks in the composition of reserve funds, depeg risk, and the sustainability of the issuer business model in low-rate environments.

A key risk associated with EMTs is the potential depegging (i.e. loss of parity with the reference currency), due to reserve, liquidity, operational, or issuer-related stress events. While this risk may be acceptable for small and medium-sized transactions, it becomes more material for very large-value ones. Even a temporary depegging can create material losses on large transactions. For this reason, as explained above, EMTs may be less suitable for wholesale payments and high-value financial settlements, where participants generally require near risk-free settlement assets such as central bank money or commercial bank money.

Adjustments are required in MiCA to reduce the depeg risk (see below).

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

- 1 = Not at all relevant/appropriately calibrated
- 2 = Slightly relevant/appropriately calibrated
- 3 = Moderately relevant/appropriately calibrated
- 4 = Mostly relevant/appropriately calibrated
- 5 = Highly relevant/appropriately calibrated

MiCA capital/own funds elements	Relevant					Appropriately calibrated				
	1	2	3	4	5	1	2	3	4	5
Minimum own funds of EUR 350,000				X					X	
2% of the average reserve of assets				X					X	
25% of the fixed overheads of the preceding year				X					X	
Additional own funds for "significant" tokens				X					X	

The MiCA methodology for sizing own funds, taking the highest of a fixed floor, a percentage of the reserve, or a share of overheads, is sound in its logic: it scales the requirement with both the size of the business and its operational complexity.

For genuine non-bank issuers, this requirement is not an add-on, it is the only prudential safeguard in place, since these entities fall entirely outside CRR/CRD, meaning no capital, liquidity or ongoing supervisory requirements otherwise apply to them. The regime therefore performs a necessary substitution function that should be preserved as is.

Credit institutions are different. They already operate under a full banking prudential framework: capital, leverage, liquidity, supervision, recovery and resolution planning. Exempting them from articles 35/46 reflects the same substance-over-form, technology-neutral logic running through MiCA, and avoids stacking a second capital regime on an entity already fully covered by one.

A middle case deserves attention: a non-bank issuer belonging to an EU banking group, such as a dedicated issuance vehicle. Legally, it is not a credit institution; economically, it sits under a shareholder already subject to consolidated supervision. Applying the full non-bank requirement to it risks recreating, one level down, the duplication MiCA avoids for banks directly. Allow a lighter capital regime for this intermediate category, conditional on prudential support from the parent group. This would help EU banking groups enter the stablecoin market through dedicated, regulated vehicles, reduce fragmentation and give Europe a credible alternative to non-EU stablecoins, without opening the framework to non-EU groups, since the relief would remain strictly limited to issuers backed by EU-headquartered banking groups, in line with MiCA's original objectives.

2.3. Liquidity and reserve requirements

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, and “5” indicates that requirements should be made substantially more stringent (e.g. higher reserves, tighter risk controls, or enhanced safeguards).

Requirement element	Non-significant EMTs					Significant EMTs				
	1	2	3	4	5	1	2	3	4	5
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Art 36(1))					X					X
Legal and operational segregation of reserve assets from the issuer's own estate and from other token reserves (Art 36(2)–(3))					X					X
Liquidity composition and maturity structure of the reserve (Art 36(4), RTS)					X					X
Minimum amount of deposits held (30% and 60%) (Art 36(4), RTS)	X					X				
Auditing requirements (Art 36(9))					X					X
Custody requirements (Art 37)				X					X	
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant EMTs (Art 45(3)–(4))	N/A									X
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)			X					X		

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

The overall architecture of the EMT reserve regime, namely the reserve obligation, segregation, auditing and custody, needs to be complemented in order to:

- keep the liquidity within Europe;
- reduce heterogeneity in risks between stablecoins and make sure that stablecoins are a solid and safe payment instrument with low depeg risk (avoiding a hierarchy of stablecoins with significant stablecoin specific discounts in case of stress);
- enhance the protection of EU holders;
- maintain European sovereignty.

Concentration of counterparty risk on a small set of credit institutions creates a contagion channel between the banking sector and stablecoins, in both directions. Our proposal is to replace the fixed percentage bank deposit requirement with a flexible risk-based allocation for a well-diversified portfolio on high quality, highly liquid assets (short dated HQLA bonds...), mirroring the GENIUS Act and UK regulation, with counterparty exposure limits (e.g. no single exposure more than 20%, decreasing to 10% for significant stablecoins above 1bn EUR to avoid concentration risk). More specifically:

Composition of reserve assets

- **Exposure limits:** replace the fixed-percentage bank deposit requirement with a flexible risk-based allocation for a well diversified portfolio on high-quality, highly liquid assets (short-dated HQLA bonds, deposits at European banks), mirroring the GENIUS Act's model. Set a counter-party exposure limit (e.g., no single exposure more than 20%, decreasing to 10 % for significant stablecoins above 1bn EUR to avoid concentration risk). The maximum maturity of reserve assets should be maximum 3 months.

EMI as issuer: A high degree of diversification of bank exposures should be imposed to reduce the risk that stress in the banking sector propagates to stablecoins: A maximum of 20% exposure per bank for non-significant stablecoins, a maximum of 10% exposure per bank for stablecoins with more than 1bn EUR outstanding.

Bank as issuer: where a reserve requirement is introduced for bank issuers, banks should invest a minimum of 40% of the reserve fund in a diversified HQLA portfolio with maturities of maximum 3M.

- **Contain liquidity outflow out of Europe:** the highly-liquid financial instruments eligible for the reserve fund shall be issued by entities established within the European Union (EU) or the European Economic Area (EEA).
- **Access to the central bank:** MiCA should grant the possibility to place a part of the reserves in a limited-purpose non-remunerated central bank account. ECB should give access also for non-bank payment innovators while restricting the privileges that are granted to a full-service account. This is also important to avoid creating significant divergences with regulatory frameworks in jurisdictions such as the US and the UK, which already permit this model.

Segregation of reserves for bank issuers: to ensure a level playing field and enhance user protection, it could be appropriate, subject to a thorough impact assessment, to harmonize the regulatory treatment of stablecoin issuance by requiring banks either to segregate reserve assets (in a bankruptcy remote arrangement) or to issue their EMTs through a separate legal entity with segregation of reserve assets, to allow the development of a uniform stablecoin ecosystem. Such an approach would strengthen resilience, improve transparency, support trust in tokenized forms of money within the European financial system and help avoid spill-overs from stress in the banking system to stablecoins.

Multi-issuance schemes should be brought within the scope of MiCA to ensure that issuers maintain sufficient reserve assets within the European Union to adequately protect European stablecoin holders.

Issuers operating under such schemes should be required to identify and monitor holders on an ongoing basis to ensure compliance with AML/CTF obligations.

In addition, issuers should report daily on the distribution of stablecoin holdings and implement regular rebalancing mechanisms across issuing entities to ensure that the holdings of European users are consistently backed at least 1:1 by reserve assets held within the European issuing entity.

Direct redemption against the European issuing entity should be reserved to clients of EU-authorised CASPs. Holders of tokens in unhosted wallets should not benefit from it, unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union.

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 asset 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 ?

Please select one option.

- ☒ 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

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

Under MiCA, stablecoins (i.e. e-money tokens) may be issued either by Electronic Money Institutions (EMIs) or directly by credit institutions.

When issued by an EMI, the regulatory framework requires the segregation of reserve assets from the issuer’s own funds. As a result, while the holder of the stablecoin retains an exposure to the issuer, this exposure is mitigated by the existence of a dedicated and diversified reserve portfolio backing the outstanding tokens.

By contrast, when a bank issues a stablecoin directly, it is not subject to the same segregation requirement. The reserve assets are not ring-fenced from the bank’s balance sheet, and the holder of the stablecoin is therefore exposed to the credit risk of the issuing bank, resulting in a lower level of protection for users. In case of a crisis in the banking sector (example Silicon Valley Bank), the contagion to the stablecoin ecosystem is very high, leading to runs on the stablecoin and depegs.

This regulatory asymmetry leads to materially different risk profiles between EMI-issued and bank-issued stablecoins. It may also create inconsistencies in market confidence and user protection across similar instruments performing equivalent economic functions. Therefore, subject to a thorough impact assessment, banks could also be required either to segregate the reserve assets or to issue their EMTs through a separate legal entity with segregation of reserve assets, as set in the U.S. GENIUS Act. All issuers would then be subject to uniform requirements and their tokens backed by a diversified portfolio of high quality, highly liquid assets. This could strengthen resilience, improve transparency, support confidence in tokenised forms of money and contribute to a uniform and interoperable European stablecoin ecosystem. It would also reduce the asymmetry with the treatment of bank issuers under the US framework, and hence the risk of regulatory arbitrage, in line with the level playing field objective.

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](#)⁶ 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? If so, how?

- 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)

Significant token criterion	EMTs					ARTs				
	1	2	3	4	5	1	2	3	4	5
Number of holders / users exceeding 10 million (Articles 43(1)(a) and 56)			X					X		

Significant token criterion	EMTs					ARTs				
	1	2	3	4	5	1	2	3	4	5
Total outstanding value / market capitalisation exceeding EUR 5 billion (Articles 43(1)(b) and 56)		X					X			
Transaction volume or value per day (average 2.5 million transactions and EUR 500 million) (Articles 43(1)(c) and 54)				X					X	

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

Our rating on the market capitalisation threshold reflects the specific case of multi-issuance schemes. For stablecoins issued solely by an EU issuer, the current thresholds are broadly appropriate. For tokens forming part of a multi-issuance scheme, lowering the market capitalisation threshold from EUR 5 billion to EUR 1 billion is one of the options set out in our reply to Question 19 to ensure that the significance assessment reflects the risks specific to these schemes.

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

☒ Yes

☐ No

If yes, please explain how you think the qualitative criteria for classifying EMTs or ARTs as “significant” should be adjusted.

Multi-issuance schemes create higher liquidity risks for Europe, and higher risks for European holders, than stablecoins issued only in Europe. The significance framework should therefore take them into account. One of the possible options, set out in our reply to Question 19, would be to make participation in a multi-issuance scheme a qualitative criterion *per se*, above a de minimis EU footprint to be determined.

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

☒ Yes

☐ No

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

The criteria are issuer-standalone and EU-bounded, which structurally under-classifies the tokens that can pose the largest contingent claim on EU reserves. In a multi-issuance scheme, the tokens are fungible and therefore economically a single instrument. The EU issuer sizes its reserve to EU

circulation, but under stress, foreign holders could claim redemptions to the European issuer to capture MiCA redemption rights. The risk to the EU is thus a function of the global float and the asymmetry between where reserves sit and where claims can be presented, not of the EU footprint. Significance assessed on EU activity alone is blind to this. Multi-issuance schemes should therefore be taken into account in the significance assessment. Several options are possible:

- **lower quantitative threshold:** for tokens forming part of a multi-issuance scheme, the market capitalisation threshold of Articles 43 and 56 would be lowered from EUR 5 billion to EUR 1 billion, so that these schemes are classified as significant earlier, in view of their specific risks ;
- **assessment at consolidated level:** where a token forms part of a multi-issuance scheme, the quantitative thresholds of Articles 43 and 56 would be assessed on the aggregate worldwide figures for the fungible token (i.e. all co-issuers combined), not solely on the EU issuer's share;
- **multi-issuance as a qualitative criterion *per se*:** participation in a multi-issuance scheme, above a *de minimis* EU footprint to be determined, would itself qualify the token as significant, irrespective of its global size. Cross-border fungibility combined with fragmented reserves is inherently a heightened risk, because redemption claims can concentrate on the EU issuer under stress regardless of the arrangement's overall scale. The *de minimis* floor would preserve proportionality by excluding marginal arrangements.

Whichever of these options is retained, the objective is the same: to ensure that multi-issuance schemes are subject to supervision by the EBA, in proportion to the risks they pose to EU reserves and EU holders.

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?

Option	EMTs	ARTs
Interest and interest-equivalent remuneration should continue to be prohibited	X	X
Interest or interest-equivalent remuneration should be allowed (fully or under defined conditions)		

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

The prohibition of granting interest or interest-equivalent remuneration on EMTs and ARTs should continue. Remunerated stablecoins would risk disintermediating bank deposits and therefore reduce credit availability in Europe, weakening prudential ratios such as the LCR, ultimately undermining the singleness of money and the two-tier monetary system that finances the European economy through bank credit. This also argues for international coordination, notably with the US regulation (GENIUS Act, Clarity Act).

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?

Currently, to the best of our knowledge, no stablecoin issuer is able to guarantee instant redemption. Consequently, holders may need to rely on secondary market sales to exit their positions. In stress scenarios, a sharp increase in redemption requests can lead to substantial redemption delays, potentially exacerbating liquidity and market stability risks, causing significant depegs.

Question 22. If you hold EMTs and wish to dispose of them, which of the following options would you most likely choose? Please select only one for each market situations.

	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
Normal market situation		X	
Stressed market situation		X	

It depends on the reason of the stress and if the holder can wait for redemption or not (for example in case of use of leverage, the holder cannot wait for redemption and is forced to sell in secondary markets).

If the stress is caused by volatility in crypto markets, then it is obvious to turn to the issuer, under the condition that the holders can wait.

If it is caused by an idiosyncratic risk on the issuer, risk of default or quality of assets in the reserve fund, it might be better to sell the EMTs in the market immediately.

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
Permanent right of redemption against the issuer, either at market value (ARTs) or at par (EMTs)		X	
Timing of redemption (timeframe for redemption by the issuer)			X

	Weaken	Keep as is	Strengthen
Prohibition of redemption fees	X		
Conditions, procedures, and transparency of redemption policies disclosed to holders		X	
Supervisory powers to intervene in or trigger redemption plans		X	

Please explain your assessment, 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.

Redemption timeline

Most stablecoin issuers appear insufficiently equipped to handle significant volumes of redemption requests. In practice, delays in processing redemptions - especially in case of a very large number of redemption requests - may contribute to material depegs of the EMT from par due to heavy selling of stablecoins in secondary markets. Such observed processing timelines do not appear fully consistent with the prudential expectations applicable to EMT issuers, which are based on the assumption holders are well protected and can exercise their redemption right at any time and that issuers maintain a very high level of liquidity and are able to honor redemption requests efficiently.

It would therefore be appropriate to define a clear timeframe for the processing of redemption requests. This timeframe should strike a balance: it should not be too short, given the operational constraints linked to the management or liquidation of reserve assets and the need to perform appropriate compliance checks, but it should also not be too long, in order to preserve holders' confidence in the redemption at par. Redemption rights should be subject to a consistent legal framework across all stablecoin issuers, ensuring equal protection for holders irrespective of the issuer.

Redemption fees

Withdraw the prohibition of redemption fees and, in parallel, strengthen the transparency obligations that must accompany any fee. Indeed, MiCA today makes redemption fee-free (articles 39 and 49), whereas the GENIUS Act leaves issuers free to charge redemption fees subject to disclosure and notice. Maintaining an outright EU prohibition creates competitive asymmetry against EU issuers and removes a legitimate tool to cover the operational cost of processing redemptions. It could also unintentionally incentivise to seek fee-free redemption in the EU, ultimately posing financial stability risks. We recommend aligning MiCA with the GENIUS logic: permit redemption fees provided that (i) they are clearly disclosed in advance in the white paper and redemption policy; (ii) they are strictly limited to the actual cost of processing the redemption and are not used to impair or discourage the exercise of the right itself; (iii) any increase in the fee amount is subject to a minimum prior-notice period to holders; and (iv) fees cannot be introduced, increased or modulated in periods of market stress, since this would push holders towards secondary market sales and aggravate depeg risk. The permanent right of redemption, at par for EMTs, at market value of the reserve for ARTs, is preserved; only the fee dimension is liberalised, under safeguards. This is why the transparency

row is marked “strengthen”: liberalising fees is acceptable only if disclosure and notice are reinforced.

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 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.

	ARTs			EMTs		
	Weaken	Keep as is	Strengthen	Weaken	Keep as is	Strengthen
Recovery plans		X			X	
Redemption plans		X			X	

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

The current MiCA requirements regarding recovery and redemption plans for both ARTs and EMTs appear broadly fit for purpose and should be maintained. The framework already requires issuers to establish credible procedures for addressing situations where reserve requirements may no longer be met, including scenarios involving significant redemption requests, operational disruptions or other stress events. Redemption rights should be strong, especially regarding timing transparency and operational certainty. Fast and predictable redemption maintains confidence during stress.

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 on a scale of 1 to 5, where:

- 1 = Not at all appropriate / desirable
- 2 = Slightly appropriate / desirable
- 3 = Moderately appropriate / desirable
- 4 = Mostly appropriate / desirable
- 5 = Highly appropriate / desirable

	1	2	3	4	5
Allowing EMT issuers to deposit their reserve assets directly into central bank accounts					X
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					X
Establishing a dedicated resolution regime for EMIs issuing EMTs					X
Allowing emergency liquidity support / lender-of-last-resort (LOLR) facilities for EMIs issuing EMTs	X				

If your answer is “Others”, please elaborate.

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

EMI access to the central bank: MiCA should grant the possibility to place a part of the reserves in a limited-purpose non-remunerated central bank account. Such access would help secure redemptions in severe stress - as central bank reserves provide instant liquidity and help the issuer to avoid temporarily less secure placements in case of stress- and therefore reduce depeg risk.

A remunerated account, on the contrary, would encourage a shift of deposits away from the banking system and interfere with monetary policy transmission. It could even lead to bring stablecoins close to central bank money as remuneration creates an incentive to increase holdings at the central bank. It would create a possibility to create an instrument close to a retail CBDC without any holding limits.

The direction taken in the United States, where a limited purpose account for non-bank payment innovators has been proposed, without deposit insurance and without interest, is a useful reference; adopting a similar approach would also avoid creating a divergence with the US framework.

To summarize, access to the central bank: MiCA should grant the possibility to place a part of the reserves in a limited-purpose non-remunerated central bank account. ECB should give access also for non-bank payment innovators while restricting the privileges that are granted to a full-service account. This is also important to avoid creating significant divergences with regulatory frameworks in jurisdictions such as the US and the UK, which already permit this model.

Resolution regimes exist for banks because an ordinary liquidation cannot contain the systemic effects of the failure of a large institution. The same logic should apply to e-money institutions issuing EMTs. Where an EMT reaches significant scale and interconnectedness, its disorderly failure could propagate to the banks holding its reserve deposits and to the wider payment system; a resolution of the issuer could then prove necessary to contain these systemic effects. A dedicated resolution framework, proportionate and reserved for significant issuers, would therefore be a useful complement to recovery and redemption plans.

Lender of last resort: emergency liquidity facilities for e-money institutions would blur the line between banks and non-bank issuers and weaken the two-tier system. The combination of high-quality reserves, and, for significant issuers, a resolution framework appears preferable.

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

- ☒ Not at all appropriate / desirable
- ☐ Slightly appropriate / desirable
- ☐ Moderately appropriate / desirable
- ☐ Mostly appropriate / desirable
- ☐ Highly appropriate / desirable

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

MiCA currently obliges issuers of EMTs to keep at least 30% of their reserve assets in deposits with European credit institutions, rising to 60% for “significant” stablecoins. It creates three serious distortions that undermine the very purpose of a stablecoin as a secure, liquid payment instrument:

- Concentration of counterparty risk: requiring the large part of reserves to sit in a small set of bank accounts concentrates exposure on a handful of institutions. In stressed market conditions (eg a bank run or a liquidity squeeze) this concentration can cause depegs of the stablecoin from par and jeopardize the token’s 1-to-1 redemption guarantee (example: Silicon Valley Bank crisis and depeg of Circle’s USDC stablecoin) and transmit risk to the wider payment system.
- Modern central-bank-money settlement systems and many stablecoin regulations (the GENIUS Act, UK and HKMA stablecoin regulation) recognize that high-quality, short-term instruments such as Treasury bills, sovereign bonds, or cash-equivalent repos can provide safety and liquidity while diversifying risk. The GENIUS Act allows stablecoin issuers to hold Treasury securities with a remaining maturity of 93 days or less, overnight repurchase agreements backed by such securities and government money market funds invested solely in these assets. Aligning MiCA with this approach would let issuers build a diversified, market-able reserve pool without sacrificing safety.
- Regulatory asymmetry across the Eurozone and the United States: the divergent treatment of reserves (MiCA’s 30%/60% deposit rule vs. the GENIUS Act’s flexible, risk-based allocation) creates significant difference in risk profile of European stablecoins vs US stablecoins and a potentially uneven playing field for cross-border transactions. It risks creating a “hierarchy” of EU-issued stablecoins in which the standing of each stablecoin depends on two intertwined factors: the counterparty exposure on a few banks and the associated sovereign exposures. The result would be a fragmented market with stablecoins trading at different levels (similar to credit spreads in bond markets) that undermines the objective of a uniform, interoperable European stablecoin ecosystem.

MiCA should be revised to allow a flexible allocation to highly liquid, short-term investments, aligned with the GENIUS Act approach, so that stablecoins remain safe, liquid, and free from counterparty concentration, thereby fulfilling their role as reliable payment instruments within the European financial system. As exposed in our answer to questions 15 and 16, the changes should be as follows:

Composition of reserve assets

- **Exposure limits:** replace the fixed-percentage bank deposit requirement with a flexible risk-based allocation for a well diversified portfolio on high-quality, highly liquid assets (short-dated HQLA bonds, deposits at European banks), mirroring the GENIUS Act's model. Set a counter-party exposure limit (e.g., no single exposure more than 20%, decreasing to 10 % for significant stablecoins above 1bn EUR to avoid concentration risk). The maximum maturity of reserve assets should be maximum 3 months.
 - EMI as issuer: a high degree of diversification of bank exposures should be imposed to reduce the risk that stress in the banking sector propagates to stablecoins: A maximum of 20% exposure per bank for non-significant stablecoins, a maximum of 10% exposure per bank for stablecoins with more than 1bn EUR outstanding.
 - Bank as issuer: where a reserve requirement is introduced for bank issuers, banks should invest a minimum of 40% of the reserve fund in a diversified HQLA portfolio with maturities of maximum 3M.
- **Contain liquidity outflow out of Europe:** The highly-liquid financial instruments eligible for the reserve fund shall be issued by entities established within the European Union (EU) or the European Economic Area (EEA).
- **Access to the central bank:** MiCA should grant the possibility to place a part of the reserves in a limited-purpose non-remunerated central bank account. ECB should give access also for non-bank payment innovators while restricting the privileges that are granted to a full-service account.

Segregation of reserves for bank issuers: to ensure a level playing field and enhance user protection, it could be appropriate, subject to a thorough impact assessment, to harmonize the regulatory treatment of stablecoin issuance by requiring banks either to segregate reserve assets (in a bankruptcy remote arrangement) or to issue their EMTs through a separate legal entity with segregation of reserve assets, to allow the development of a uniform stablecoin ecosystem. Such an approach would strengthen resilience, improve transparency, support trust in tokenized forms of money within the European financial system and help avoid spill-overs from stress in the banking system to stablecoins.

In combination with these elements, we also make specific proposals for **multi-issuance schemes**: see the question 29.

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

	1	2	3	4	5
International payments (cross-border remittance or transfers,)				X	
Intra-EU payments (domestic and cross-border EU payments)	X				
Crypto trading and liquidity provision					X
Retail payments - Person to Person		X			
Retail payments - Person to Business (POI payment to merchants including e-commerce)			X		
Retail payments - Business to Business			X		
Settlement of tokenised financial instruments (e.g., digital bonds, securities)		X			
Corporate treasury management			X		
Access to programmable or smart contract-based financial services (DeFi applications)					X
Provision of financial services in underserved regions in the world				X	
Other potential use cases (please specify)				X	

Please explain shortly your assessment and expectations as regards the use cases of global stablecoins (EMTs/ARTs) and the benefits for EU users.

Global stablecoins have the potential to generate benefits for EU users by enabling faster, more efficient and potentially lower-cost transfers of value across jurisdictions and across different types of financial infrastructure.

Their benefits are particularly evident in use cases involving cross-border transactions, where traditional payment and settlement processes can involve multiple intermediaries, fragmented operating hours and higher costs.

On the contrary, their added value appears more limited for domestic and intra-EU payment use cases, where efficient banking and payment infrastructures are already available.

Moreover, it is expected that tokenised deposits and tokenised central bank money will play an increasingly important role in the future, particularly in high-value transactions within capital markets. In fully integrated on-chain ecosystems enabling smart contract-based orchestration of payments and settlement of tokenised instruments such as bonds, funds, and collateral, different forms of digital money are likely to coexist. In such a structure, stablecoins may primarily serve retail use cases and lower-value transactions, whereas tokenised deposits and tokenised central bank money are expected to be preferred for higher-value or systemically important transactions. In the interbank market, we expect wholesale Central Bank Digital Currency (wCBDC) to become the only relevant means of payment. Given the systemic importance of interbank settlements, the preference for central bank money, and the regulatory expectations around settlement finality, wCBDC offers a level of security and trust that private alternatives are unlikely to match in this segment.

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? Please indicate on a scale of 1 to 5.

	1	2	3	4	5
EU-based and licenced stablecoin issuers				X	
EU-based and licenced CASPs				X	

Please explain shortly your reply.

European users will access global stablecoins if they provide added value for them. Such use cases have been identified, as explained above. Therefore, global stablecoins compliant with MiCA should be available to allow European issuers to stay competitive.

The problem is the circulation of global stablecoins in the EU outside the regulated perimeter in absence of regulated alternatives, as illustrated by the persistent use of USDT. Channeling access through EU-authorized issuers and CASPs and strict rules for reserve requirements located in Europe are therefore the option that maximizes holder protection, the quality of prudential data and supervisory sovereignty. This is the argument for permitting, under conditions, multi-issuance via an EU-authorized issuer, rather than prohibiting it and leaving the market to offshore solutions.

See our recommendation above.

Question 29. Based on your experience and assessment, how significant are the following risks associated with a multi-issuance model⁷ of global stablecoins for the EU financial system?

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

	1	2	3	4	5
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)					X
Unbalanced reserve distribution across jurisdictions (e.g. fragmentation of reserves between EU and non-EU entities)					X
Cross-border reserve transfer restrictions (e.g. third-country limitations on moving reserves during stress events)					X
Regulatory arbitrage due to fungibility of tokens (e.g. operation across regimes exploiting differences in prudential or conduct rules)					X
Supervisory monitoring and data-tracking challenges (e.g. difficulty measuring EU-holdings, especially holdings in self-custodial wallets)				X	
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.					X
Others					

If your answer is “Others”, please elaborate.

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

In a multi-issuer scheme, the same token is issued by two or more legal entities in different jurisdictions and presented to users as fungible and interchangeable, while each issuer holds its own reserve pool under a different legal and supervisory regime. The reserves backing of the tokens are therefore fragmented. Depending on how reserves are allocated across the various reserve pools, EU token holders could face insufficient liquidity in the European reserve pool to redeem their tokens. As a result, they may be forced to enforce their claims in foreign jurisdictions to gain access to reserve assets held outside the EU, a process that can be legally complex, costly, and operationally challenging.

Since redemption at par is unconditional under MiCA, holders located outside the EU have every incentive to redeem against the EU issuer whenever the third-country issuer imposes fees or delays, or whenever the token trades below par. The EU issuer then becomes the redeemer of last resort of the global scheme, at the expense of EU holders. A sudden outflow of reserves would in turn strain the liquidity of the banks holding the reserve deposits, with possible spillovers to the broader banking system. Finally, the rebalancing mechanisms on which these schemes rely are private law agreements; they may function in fair weather, but third-country authorities can restrict or suspend transfers precisely when they are most

needed. These schemes can also be marketed as EU-protected while the non-EU leg escapes MiCA reserve quality, reporting and consumer protection rules.

For these reasons:

- **multi-issuance schemes** should be brought within the scope of MiCA to ensure that issuers maintain sufficient reserve assets within the European Union to adequately protect European stablecoin holders;
- issuers operating under such schemes should be required to identify and monitor holders on an ongoing basis to ensure compliance with AML/CTF obligations;
- issuers should report daily on the distribution of stablecoin holdings and implement regular rebalancing mechanisms across issuing entities to ensure that the holdings of European users are consistently backed at least 1:1 by reserve assets held within the European issuing entity;
- direct redemption against the European issuing entity should be reserved to clients of EU-authorised CASPs; holders of tokens in unhosted wallets should not benefit from it, unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union.

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

Please explain the reasons for your response and describe the potential implications for the EU market and relevant stakeholders.

A prohibition would be counterproductive. It would deprive European issuers of the only vehicle allowing a euro stablecoin to reach global scale; it would push activity towards offshore or reverse-solicitation solutions, to the detriment of holder protection; and it would contradict the ambition to internationalize the euro. The right response is not to prohibit but to bring these schemes explicitly within the scope of MiCA and to regulate them properly, so that the reserve assets backing European holders are adequately protected at all times.

Our priority proposals concern the composition of the reserve assets. They are set out in our replies to questions 15, 16, 25 and 26 and apply to all EMTs, including those issued under multi-issuance schemes: replacement of the fixed bank deposit floor with a flexible, risk-based allocation across a well-diversified portfolio of high quality, highly liquid assets, with strict diversification limits per credit institution/issuer and a maximum maturity of three months; reserve instruments issued by entities established in the EU, to contain liquidity outflows out of Europe; segregation of reserve assets by credit institutions issuing EMTs, (subject to a comprehensive impact assessment, and the possibility to place a part of the reserves in a limited purpose, non-remunerated central bank account. Applied to multi-issuance schemes, these rules must translate into the obligation to maintain sufficient reserve assets at any time within the European Union to adequately protect European holders. To guarantee the 1:1 backing at any time, issuers operating under such schemes should identify and monitor holders on an ongoing basis, including for AML/CFT purposes, report daily on the geographic distribution of holdings, and implement regular rebalancing mechanisms across issuing entities. As a corollary, direct redemption against the European issuing entity

should be reserved to clients of EU-authorised CASPs, and holders of tokens in unhosted wallets should not benefit from it unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union; we develop this point in our reply to question 36.

In addition, as stated in our answer to question 29:

- issuers operating under multi-issuance schemes should be required to identify and monitor holders on an ongoing basis to ensure compliance with AML/CTF obligations;
- they should report daily on the distribution of stablecoin holdings and implement regular rebalancing mechanisms across issuing entities to ensure that the holdings of European users are consistently backed at least 1:1 by reserve assets held within the European issuing entity;
- direct redemption against the European issuing entity should be reserved to clients of EU-authorised CASPs; holders of tokens in unhosted wallets should not benefit from it, unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union.

In complement to these priority proposals, four elements should be conditions to any authorisation of such schemes:

- first, reciprocity: an agreement should ensure that the third country allows the issuance of euro-denominated stablecoins by EU firms under the very same terms as in the EU;
- second, multi-issuance schemes should be taken into account in the significance assessment, through one of the options set out in our reply to question 19 (lower capitalisation threshold, assessment at consolidated level, or multi-issuance as a qualitative criterion in its own right), so that supervision of these schemes is exercised by the EBA rather than by national competent authorities, in proportion to their scale and international footprint;
- third, supervisory cooperation agreements between the EU and the third country should ensure that no legal barrier can be imposed by authorities or by the issuers on the transfer of assets between the two jurisdictions, in going concern as well as in stress, recovery and resolution scenarios, so that the rebalancing mechanism operates at all times and the MiCA requirements on the custody, composition and location of reserves are respected at all times. The EBA should have full access to reliable data on the tokens issued and, on the reserves, held inside and outside the EU.
- fourth, an assessment of the regulatory and supervisory framework applicable to the non-EU issuer, as one of the conditions for authorising the EU leg of the scheme, consistent with the approach of the ESRB. Such an assessment should never substitute for MiCA requirements, nor confer any passport or market access right (see our reply to question 40).

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. Does this approach continue to be justified in view of market developments? Does it discourage the international role of the euro?

☒ Yes

☐ No

Yes, the approach remains justified. The rule is a useful protection: it prevents an offshore-issued euro stablecoin from escaping MiCA and ensures a uniform protection of holders. It does not in itself discourage the international role of the euro, provided the framework is adjusted, in particular through a

regulated multi-issuance regime. Combined with a prohibition of multi-issuance, however, it would make it impossible to build a globally circulating and competitive euro stablecoin, and would limit the international role of the euro that the Union seeks to promote.

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

Advantages: it sets a standard for solid global stablecoins that should resist in stress situations better than others and prevents circumvention of MiCA by offshore-issued euro stablecoins; protects EU holders uniformly; preserves monetary sovereignty; allows European issuers to compete in global markets.

Recommendation: retain the connecting rule as a protective baseline, and complement it with a multi-issuance framework conditioned on reciprocity, so as to turn a defensive mechanism into a lever for the internationalization of the euro.

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	2	3	4	5
Strengthening EU payment autonomy — retail payments			X		
Strengthening EU payment autonomy — wholesale payments	X				
Enhancing the international role of the euro				X	

Please explain your reply.

In a tokenised-market environment, especially on DLT networks where neither tokenized commercial bank money nor central bank money are available for the time being, euro stablecoins could be a vector of the international role of the euro. Their effective contribution, however, depends on their solidity and ability to reach global critical mass, which only a framed multi-issuance makes possible. Otherwise, the euro ecosystem will remain confined to intra-EU use while other currencies, especially the dollar, increase their position in the international markets for on-chain settlement.

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

	1	2	3	4	5
Restriction of widely used ARTs and EMTs denominated in a currency that is not an official currency of a Member State (Articles 23, 58)				X	
ECB binding opinion powers on withdrawing authorisation and limit the amounts of ARTs and EMTs (Articles 24(2)(3), 58)				X	
EU establishment requirement for ART and EMT issuers (Article 16)				X	
Reserve location, composition and liquidity requirements for ARTs and EMTs (Articles 36–38, 45, 54)	X				
The powers of competent authorities listed in Article 94, especially to suspend or prohibit the trading of crypto-assets				X	
National supervisory intervention powers (Article 105)				X	
EBA temporary intervention powers (Article 104)				X	

Existing safeguards are necessary and effective, in the sense that none of them should be relaxed. They are, however, not sufficient on their own and need to be complemented to form a comprehensive framework: MiCA does not prevent the transfer of liquidity outside of Europe and does not prevent foreign access to reserves that are supposed to back the holdings of Europeans.

We have identified the following gaps:

- (i) custody location in the EU does not prohibit investments in assets that allow the transfer of liquidity out of Europe;
- (ii) reserve composition: reserve composition is qualified only by risk metrics (art. 38) and not qualified by issuer location;
- (iii) access of foreign holders to reserves that back European holders;
- (iv) insufficient capability of the issuer to identify European holders of a global stablecoin;
- (v) the international character of multi-issuance schemes creates a fragmentation risk. These gaps call for targeted amendments.

To address these issues, it is important to maintain the combination of measures we propose, because they are only efficient when applied together.

These measures have been elaborated specifically to address the following key topics:

- keep the liquidity within Europe
- reduce heterogeneity in risks between MiCA compliant stablecoins and making sure that stablecoins are a solid and safe payment instrument with low depeg risk (avoiding a hierarchy of stablecoins with significant stablecoin specific discounts in case of stress). High heterogeneity makes European stablecoins less competitive vs foreign issued stablecoins, as they could be

- perceived as more risky, especially compared to US stablecoins backed by US Treasury bonds.
- maintain European sovereignty

⇒ **Proposed measures: see answers to questions 15, 16, 25, 26, 29, 30.**

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
- ☐ Uncertain

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

In general, it is possible for issuers to determine holders of their stablecoins, but unhosted wallets and non-EU platforms make accurate estimation of all European holdings difficult. This is a genuine gap, which justifies reinforcing KYC/AML/CTF requirements and reporting (real-time reporting on reserve location and transfer constraints) and white-paper transparency, and channelling access through EU-authorized CASPs, which improves data quality. It is not an argument for prohibition: offshore USDT holdings are no longer measurable, and a prohibition would move the problem outside MiCA perimeter.

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

- ☒ Yes
- ☐ No

Please explain your response. If you indicated “Yes, what criteria should be used to determine who qualifies as an EU holder? Please also provide a rationale for your proposed approach.

MiCA currently grants an unconditional right of redemption to all token holders, irrespective of their location and of the way they hold their tokens. This is particularly problematic in multi-issuance schemes, where the holdings of non-European holders are supposed to be covered by entities that hold reserve assets under other regulations.

Therefore, the reserves held in Europe should protect European holders and should never serve as asset pool of last resort for the global scheme in the case that foreign reserves are insufficient to cover redemption requests.

The issuers of global stablecoins should be obliged to rebalance assets in reserve funds immediately in function of the origin of the holders of the stablecoin to guarantee at any time 1:1 backing for European holders.

As regards the criteria, direct redemption against the issuer should be reserved to holders who are clients

of EU-authorised CASPs, and are therefore identified under EU rules. Holders keeping their tokens in unhosted wallets should not benefit from a MiCA redemption right, unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union; the burden of proof would lie with the holder, and the issuer would apply the same identification standards as for its other clients. In a multi-issuance scheme, the other holders would exercise their rights against the issuer of their own jurisdiction.

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

Please explain your response

This concern is well-founded: the experience of the 2008 financial crisis shows that third-country authorities can restrict or suspend reserve transfers to ring-fence assets within their territory, to the detriment of EU holders. A purely contractual, private-law rebalancing mechanism does not hold under those conditions. A legally binding, enforceable arrangement guaranteeing reserve mobility is strongly needed.

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

- 1 = Highly ineffective
- 2 = Somewhat ineffective
- 3 = Neutral / uncertain
- 4 = Somewhat effective
- 5 = Highly effective

Possible additional mitigation measure	1	2	3	4	5
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)					X
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.					X

Possible additional mitigation measure	1	2	3	4	5
Differentiating redemption rights in crisis situations between retail and wholesale/professional holders	X				
Requiring a dedicated liquidity buffer or additional reserve tranche specifically calibrated to cover short-term redemption spikes in the EU				X	
Strengthening real-time or high-frequency reserve and liquidity reporting to EU competent authorities, including granular disclosure of reserve location and transfer constraints					X
Establishing binding cooperation arrangements between home and host supervisors to ensure rapid approval and execution of cross-border reserve transfers in stress scenarios					X
Others					X

If your answer is “Others”, please elaborate.

Strengthening the position of holders whose tokens genuinely circulate in the EU, and reserving direct redemption to clients of EU-authorized CASPs, with no redemption right for holders of tokens in unhosted wallets unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union, are key and consistent with our replies to Questions 30 and 36. High-frequency reporting on reserves, including their location and any transfer constraints, and binding cooperation arrangements between home and host supervisors are, in our view, the most effective measures; we would make them conditions to authorisation rather than optional mitigants.

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.

Any adjustment of redemption rights raises real operational questions: the identification of EU holders, the treatment of unhosted wallets, and the risk of tokens being moved into the EU in times of stress precisely to benefit from MiCA protections. This is why we would combine the adjustment of redemption rights with ongoing holder identification, daily reporting of holdings by geographic location and holder origin, and a rebalancing obligation ensuring that holdings of European citizens are backed at least 1:1 by reserves held within the EU entity at all times.

We would also insist on the legal dimension. The effectiveness of any regime ultimately depends on agreements ensuring that no legal barrier can be imposed by authorities or by the issuers on the transfer of assets between the jurisdictions concerned, in going concern as well as in recovery and resolution, so that the full mobility of the resources needed to meet redemption requests is possible at all times. A financial support agreement underpinning the rebalancing mechanism, recognised by both sets of authorities, would give it the robustness that a purely contractual arrangement lacks.

Question 40. Do you see merit in introducing an [equivalence regime](#)⁸ for global stablecoins in the EU?

☐ Yes but only if other mitigation measures are not introduced

☐ Yes, in addition to mitigation measures

☒ No

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

We do not support a full equivalence regime as a route for global stablecoins to access the EU market. This position should not be read as a wish to close the European market to foreign issuers. As explained in our reply to Question 27, European users have a legitimate interest in accessing global stablecoins, in particular for cross-border payments, crypto-asset trading and programmable finance, and stablecoins issued under robust frameworks, such as the one recently adopted in the United States, have their place in the European market. The question is not whether foreign issuers should have access, but under which conditions, and who guarantees the protection of European holders when conditions deteriorate.

In our view, the opening of the EU market to foreign issuers should take place through the authorisation of multi-issuance schemes within MiCA rather than through equivalence. Under such a model, the foreign group establishes an issuing entity authorised and supervised in the Union, which issues tokens fungible with those issued abroad. The framework governing these schemes, set out in our replies to Questions 29, 30 and 36, is precisely what protects European holders and prevents liquidity from leaking out of the Union: reserve assets held in the EU and invested in instruments issued by EU entities; backing of the holdings of European users at least 1:1 at all times; ongoing identification of holders and daily reporting on the geographic distribution of holdings; regular rebalancing between issuing entities; and redemption against the EU entity reserved for clients of EU-authorised CASPs, holders of tokens in unhosted wallets being excluded unless they demonstrate to the issuer that they are permanent resident or permanently established in the Union. Protection then rests on assets located in the Union and on rules enforced by EU authorities.

A full equivalence regime would reverse this logic. By relying on the third-country framework for the regulation and supervision of the issuer, it would make European holders dependent on decisions taken by non-EU supervisors, whose mandates are to protect their own markets and their own holders. In normal times, this dependence may go unnoticed. But in a crisis, a third-country authority could unilaterally decide to ring-fence reserves and liquidity within its jurisdiction, restrict cross-border transfers or give priority to domestic redemptions, as the 2008 crisis showed in the banking sector (see our reply to Question 37). European holders would then have no reserve pool in the Union to rely on, and no EU authority able to act. Equivalence would also expose the Union to changes in the third-country framework after the decision has been taken, and would require a regime-level assessment that is particularly difficult in the absence of an international standard for stablecoins.

We would therefore suggest the following approach: (i) market access for foreign stablecoins through an EU-authorised issuing entity within a regulated multi-issuance scheme, with no direct market access right derived from equivalence; (ii) an assessment of the third-country framework used, where relevant, as one of the conditions for authorising the EU leg of a multi-issuance scheme, but not as a substitute for MiCA requirements; (iii) binding supervisory cooperation agreements ensuring that no legal barrier can be imposed on the transfer of reserve assets between jurisdictions, in going concern as well as in stress and resolution, together with full access of the EBA to data; (iv) reciprocity, so that European issuers can offer euro-denominated stablecoins in the third country on equivalent terms.

This approach offers a constructive basis for dialogue with the international partners of the EU, and notably with the United States: it welcomes their stablecoins on the European market, acknowledges the quality of their regulatory frameworks and relies on²⁷ close supervisory cooperation, while ensuring that the protection of European holders, and the liquidity backing their tokens, remain anchored in the Union.

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?

As explained in our reply to question 40, equivalence should not confer any market access right on third-country issuers: an assessment of the third-country framework should only be one of the conditions for authorising the EU leg of a multi-issuance scheme, and reciprocity a condition for opening the EU market rather than a source of rights for third-country issuers. European citizens should be protected by reserve assets held within Europe. Therefore, the priority should be to ensure robust protection of European reserve assets, as outlined in our responses regarding multi-issuance schemes and in our recommendations.

We would like to reiterate that only the combined implementation of our recommendations provides a comprehensive framework to safeguard both European liquidity and the interests of European stablecoin holders.

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

MiCA Level 1 acts for ART and EMT issuers	1	2	3	4	5
Authorisation of ARTs and EMTs issuers				X	
Prudential requirements			X		
Governance arrangements				X	
Obligations in respect of specific crypto-asset services			X		

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

MiCA Level 2 acts for ART and EMT issuers	1	2	3	4	5
RTS on complaint handling by issuers of ARTs (Article 31(5))				X	
RTS on the minimum content of governance remuneration (Article 45(7)(a))			X		
RTS on the information to be submitted in an application for authorisation to issue ARTs (Article 18(6))			X		
COM Delegated Act on ART/EMT significance criteria (Article 43(11))		X			
RTS on own funds for issuers of ARTs and EMTs (Article 35(6))					X

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

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

Please explain

Standardised information flows between CASPs and issuers are a key element for EU holdings and reserve adequacy to be estimated within a multi-issuance scheme. Standardization would support reinforced reporting and white paper transparency, and therefore would be a pro-stability element of a conditional-authorisation model.

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 categories⁹.

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

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.

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

There should not be differences in terms of client protection between crypto assets and MIFID instruments. Therefore, we consider that appropriateness tests would better protect CASP clients, especially retail clients.

However, specific analysis may be necessary to determine if such a test would be proportionate based on the service in question, the type of crypto-asset and the targeted audience. In addition, it would be appropriate to align these possible additional requirements with the existing MIFID framework.

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? 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?

If your answer is “No”, please explain what in your view could be a relevant alternative.

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

Crypto-asset services are functionally close to investment services: custody and administration, reception and transmission of orders, execution, placing, operation of a trading platform. The principle of “same activity, same risk, same rules” argues for aligning the prudential regime of CASPs with the framework applicable to investment firms under IFR/IFD, so that own funds requirements scale with the actual risk profile of each provider.

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)

CASP minimum capital requirements	1	2	3	4	5
Minimum initial capital for Class 1 (EUR 50.000)				X	
Minimum initial capital for Class 2 (EUR 125.000)				X	
Minimum initial capital for Class 3 (EUR 150.000)					X

Please explain your answer, indicating, if necessary, how the amount of minimum capital should it be recalibrated?

The current amounts are very low in relation to the risks that large non-banking CASPs can carry. A minimum of EUR 150 000 for a Class 3 provider, which may operate a trading platform and hold custody of client assets, bears no relation to the scale that some platforms have reached; applied to an entity of the

size of the largest global exchanges, such a requirement would clearly be inadequate for institutions that may become systemic for the crypto-asset markets and increasingly interconnected with traditional finance.

Fixed minimums are, in any event, a poor measure of risk for this population, which ranges from small advisory firms to global platforms. We therefore suggest modelling the prudential regime of non-banking CASPs on the one applicable to investment firms under IFR/IFD. Own funds would be the highest of a permanent minimum capital, a fixed overheads requirement, and a risk-based requirement built on K-factors capturing, in particular, the client assets safeguarded and administered, the client money held, the order flow handled and, for trading platforms, the trading activity. Permanent minimum capital levels should at least be aligned on those applicable to investment firms providing broadly similar services. This approach would make requirements proportionate at both ends of the spectrum: it would not overburden small providers, while ensuring that requirements grow with the footprint of the largest ones, and it would avoid a regulatory gap between MiFID firms and non-banking CASPs as the two universes converge.

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?

- ☐ The existing approach should be maintained
- ☒ There should be enhanced oversight and coordination in relation to such entities

If you chose the second option, which of the following enhanced oversight and coordination mechanisms do you consider may be appropriate?

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

Please provide any comments on the operational feasibility, legal implications, proportionality, or potential unintended consequences of the measures above. If your answer is “Other”, please elaborate.

The EU crypto-asset market is dominated by a small number of multi-function groups combining issuance, exchange, custody and related services at scale, most headquartered outside the EU. These groups currently fall outside any group-wide supervisory framework: prudential consolidation applies only to banking groups, the conglomerates framework does not capture e-money institutions or CASPs, and MiCA colleges are only for significant ART/EMT issuance. This creates an unjustified asymmetry: a banking group carrying out crypto activities is subject to full consolidated supervision, while a global crypto-native group of comparable scale is not, even though the FTX failure showed how intra-group dependencies, conflicts of interest and opaque structures can propagate stress across an entire market.

For European MFGs, we support a sequenced approach: in the short term, structured supervisory cooperation between the EBA, ESMA, NCAs and the ECB for non-bank groups including a significant issuer or CASP; in the medium term, as part of the MiCA review, a formalised framework with group-level supervision and reporting to a centralized authority. Enhanced oversight should target crypto-native groups and not duplicate consolidated supervision already applicable to banking groups.

The need is also pressing for internationally active groups operating across the EU and third countries, whose supervision is currently organised along jurisdictional lines. For these groups, we would support the creation of international supervisory colleges, so that EU and third-country authorities can share information systematically, form a common view of group-wide risks and prepare jointly for stress scenarios. Such colleges should be proportionate and reserved for groups whose size and cross-border footprint justify them.

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? If yes, what kind of reporting would be useful? How often?

	YES	NO
Direct holdings of crypto-assets by CASPs	X	
Large exposures to derivatives with crypto-assets as the underlying asset	X	
Volumes of leveraged contracts and the extent to which leverage is actually used on trading platforms	X	
Information on counterparty risk	X	

All categories correspond to material data gaps that prevent supervisors from assessing the build-up of systemic risk. Visibility is currently very limited on leverage deployed on trading platforms, on interlinkages between financial institutions and the crypto sector, and on counterparty risk from crypto

services and derivatives. These gaps are all the more concerning given the extreme concentration of critical services.

Quarterly reporting appears proportionate, with monthly frequency for significant CASPs and an ad hoc mechanism in stressed conditions. Templates should be harmonised at EU level to ensure comparability and should allow group-level aggregation for the groups referred to in Question 51.

3.5. Environmental and sustainability reporting

MiCA strengthens transparency on the environmental impact of crypto-assets. It does so by (1) 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, and (2) 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

Please explain your assessment

While the regime is broadly appropriate, certain clarifications are needed regarding the practical sourcing of environmental data. Currently, the data market is fragmented and incomplete, which creates a significant challenge for CASPs.

Firstly, we highlight that an increase in disclosure requirements directly translates into higher operational costs for CASPs. To ensure proportionality, it is crucial that the required data be strictly relevant and directly linked to the specific activities performed.

Secondly, we suggest a more streamlined approach to data distribution. Many stakeholders (including other CASPs) may require this information; however, rather than imposing redundant reporting burdens on all actors, these stakeholders should be able to obtain the necessary data through their direct counterparties. This would ensure data integrity while minimizing the overall cost of compliance for the industry.

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?

The CASPs covered by MiCA are directly subject to DORA (the regulation applies to virtually all EU financial entities, including CASPs). Consequently, CASPs must comply with DORA's core obligations (upgrading internal governance, updating contractual arrangements, incident reporting, criticality identification, etc.).

With MiCA and crypto-assets, cyber risk is intrinsically higher. The use of technology for wallet management and custody exposes the firm to specific risks in the event of key compromise, hacking, and to a complex IT environment linked to the activity. Therefore, it is essential to incorporate these new risks into the deployment of a new line of business for the institution, while respecting the proportionality principle envisaged by DORA.

When CASPs deliver services through client-facing digital products (web portals, mobile wallets, embedded applications), CRA-mandated security-by-design and product-incident reporting obligations become applicable in addition to DORA's requirements.

DORA envisages a EU-wide cyber-incident repository, but it does not specify whether events such as wallet compromise, token-freeze attacks or smart-contract exploits must be reported through the same channel or under separate thresholds. Clarification is needed to ensure consistent EU-wide monitoring.

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? If so, please explain your response.

☒ Yes

☐ No

The recent PSD 3/R amendments substantially improve legal certainty on the relationship between MiCA-governed e-money token (EMT) services and the EU payment-services framework. By stating that all transfers of funds, including EMTs, are covered by PSD 3/R unless they fall within the narrowly defined exclusion list (own-account transfers, placement, collateral use, or exchange on a client's own account), the legislation logically aligns EMTs with traditional e-money and ensures that any CASP offering services that resemble a payment must fulfil PSP authorisation, capital and safeguarding obligations. At the same time, purely "exchange-only" or "custody-only" activities remain exempt, avoiding an unnecessary regulatory burden.

While the new rules are largely clear, further guidance is needed to avoid divergent national interpretations: the definition of "payment-like services" should be illustrated with concrete examples (such as API-based crypto-checkout or instant token-to-fiat payments). Technical interoperability between MiCA settlement mechanisms and existing payment infrastructures must be supported by common standards. The potential overlap between PSP capital requirements and MiCA capital rules should be

clarified to prevent disproportionate cumulative capital demands. Moreover, the scope of EMTs used as collateral requires a precise legal definition and clear segregation and reporting obligations. Finally, a streamlined supervisory approach would reduce duplication and ensure consistent oversight across Member States.

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

MiCA should not unduly restrict the access of EU consumers and investors to global crypto-asset liquidity. Crypto-asset markets are global by nature and a large part of their depth and price formation lies outside the Union. Confining EU users to European liquidity pools alone would mean less depth, wider spreads and poorer execution, and would encourage users to turn directly to offshore platforms, outside any MiCA protection. Access to global liquidity should therefore remain possible, provided it is channelled through EU-authorised CASPs, which remain accountable to their clients for best execution, the safeguarding of client assets, AML/CFT controls and market integrity.

In this respect, the reverse solicitation regime provided for in Article 61 of MiCA is legitimate and should be maintained: a European client who, on his or her own exclusive initiative, seeks the services of a third-country provider must remain free to do so. The regime is, however, difficult to enforce in practice. Third-country platforms actively market their services to EU users through social media, influencers, localised websites and applications, while claiming to act under reverse solicitation. Its credibility therefore depends on a strict reading of the exclusive initiative condition, in line with ESMA's guidelines, and on the effective use of existing supervisory powers, reinforced where necessary, such as coordinated monitoring of online marketing, powers to require the blocking of websites and the removal of applications from app stores, cooperation with payment service providers and public warning lists. Robust enforcement is essential both to protect EU clients and to preserve a level playing field with EU-authorised CASPs.

A second major issue for the Union is to avoid liquidity leakage outside the EU. When trading, settlement and custody are concentrated on third-country venues, the assets and cash of European users, together with the related revenues and data, migrate outside the Union and beyond the reach of EU authorities, including in times of stress. A balanced approach should therefore combine open access to global liquidity with safeguards ensuring that the client relationship, the safekeeping of client assets and fiat on- and off-ramps remain under the responsibility of EU-authorised entities. Where an EU CASP routes orders to a third-country venue or liquidity provider, it should perform adequate due diligence on that counterparty and remain fully accountable to its clients. The same logic underpins our proposals on multi-issuance stablecoins: openness to global markets is desirable, provided that the protection of European users and the liquidity backing their assets remain anchored in the Union.

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.

4.2. 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 regulation¹¹. 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? If not, what specific requirements should be applied to staking service providers?

☒ Yes

☐ No

We consider the current approach, under which staking is not subject to a standalone regulatory regime, to be broadly appropriate. Where staking is offered by a CASP as an ancillary service to custody, the custody framework of MiCA, together with the requirement to obtain the client's explicit consent, provides a sound basis.

This framework would nevertheless benefit from a clearer definition of certain minimum requirements whenever staking services are provided, particularly when they are combined with custody: (i) enhanced client information on slashing risk, lock-up and unbonding periods and their effect on the client's ability to access or dispose of the assets; (ii) clear rules on the segregation of staked assets and on their treatment in the event of the provider's insolvency; and (iii) an appropriate prudential treatment of potential slashing losses.

Staking can also be provided without any custody of client assets, for instance through non-custodial or delegated staking arrangements. Where it is offered independently of custody, it should nonetheless be subject to an appropriate framework. That framework should be proportionate and tailored to the operational, governance and consumer protection risks specific to staking, without replicating the requirements applicable to custodians.

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

☒ Yes

☐ No

If “Yes”, what do you believe should be the main elements of regulatory requirements applicable to lending and borrowing and why?

Crypto-asset lending and borrowing are not comprehensively covered by any regulation today, although these activities can perform functions economically comparable to credit intermediation and give rise to significant risks for clients and for market integrity. This constitutes a regulatory gap, which is most material where such services are offered by centralised platforms.

We therefore consider that centralised crypto-asset lending and borrowing should be subject to a dedicated and proportionate framework at EU level. What matters is that these activities are effectively regulated, rather than the specific legal vehicle chosen to that end. That framework should provide for appropriate safeguards, covering in particular clear disclosure of the risks and of contractual terms, including any transfer of ownership of the lent assets and the credit risk and operational risk borne by clients on the provider, rules on the reuse of client assets, sound collateral and liquidity management, and own funds commensurate with the risk borne. As these activities cover many different arrangements, its application should follow their economic substance together with their legal characterisation, rather than the technology used. Depending on the structure, this may call for CASP-type conduct rules, for an assessment under MiFID II where the arrangement works as an investment product, or under CRD where the provider takes assets onto its own books and undertakes to return them, similarly to deposit-taking.

The situation is different for activities carried out through fully decentralised protocols, where no identifiable natural or legal person exercises control. In these cases, where an authorised CASP provides or facilitates access to such protocols for lending and borrowing purposes, it should be required to apply proportionate risk management measures reflecting the risks associated with these services, and to provide its clients with proper information about these risks.

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

☒ By MiFID

☐ By MiCA

In line with the principle of technology neutrality, the applicable regime should follow the economic characteristics and risk profile of the contract, not the technology used to record, trade or settle it. Applying the principle of substance over form, the use of DLT and smart contracts do not alter the substance of a prediction market contract, just as it does not change the fundamental nature of a tokenised financial instrument.

Where a prediction market contract has the characteristics of a derivative, which is generally the case where its payout depends on the occurrence of a future event or on the value of a variable, it should be assessed against Annex I, Section C of MiFID II and, where it qualifies, be governed by the derivatives framework (MiFID II/MiFIR, MAR and, where relevant, EMIR), whether or not it is DLT-based. Placing such contracts under MiCA would create an inconsistent perimeter for economically equivalent products and invite arbitrage. A contract that does not meet the definition of a financial instrument should not fall within MiCA for the sole reason that it is recorded on a ledger: its treatment should be determined on the same basis as that of its non-DLT equivalent.

As for perpetual futures (see Question 72), the main challenge lies less in classification than in supervisory reach over platforms offering these products to EU clients without the required authorisation.

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

- ☒ Yes, by MiFID
- ☐ Yes, by MiCA
- ☐ No

Perpetual futures on crypto-assets are, by their economic characteristics, derivative contracts. Consistent with technology neutrality and the substance-based approach set out in our reply to Question 1, they should be governed by the derivatives framework, namely MiFID II/MiFIR, EMIR for clearing and margining, and MAR for market abuse, regardless of whether the underlying is a crypto-asset and whether the contract is recorded or settled on a distributed ledger through smart contracts. Neither the use of tokenised collateral nor DLT-based settlement alters this classification, which must be determined by the economic characteristics and risk profile of the transaction rather than by the infrastructure used. Placing crypto-asset derivatives under MiCA would, by contrast, create an inconsistent perimeter for economically equivalent products and encourage regulatory arbitrage.

ESMA has already confirmed this reading: in its guidelines on the qualification of crypto-assets as financial instruments, it considers perpetual futures as derivatives to be assessed against the relevant points of Annex I, Section C of MiFID II, even though they have no expiry or settlement date. The classification rules therefore do not need to be revisited. The real issue is supervisory reach over platforms that offer these products to EU clients without the required authorisation, whether they rely on a MiCA authorisation alone, which does not extend to financial instruments, or operate from a third country outside any recognised access route. National competent authorities already have powers to address this situation; these should be used effectively and reinforced where necessary (see our reply to Question 56).

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

In principle, the requirements already applicable to derivatives under MiFID II/MiFIR, EMIR and MAR should apply to perpetual futures on crypto-assets and to the firms providing services in relation to them. Where necessary, these requirements could be calibrated to reflect the specific features of these products, in particular continuous 24/7 trading and the volatility of the underlying crypto-assets.

At this stage, we do not take a firm position on the precise substantive calibration, and we would welcome the opportunity to contribute to further work by the Commission and ESMA on this topic.

4.5. Tokenised deposits

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.

Scale used:

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

Potential use case or benefit	1	2	3	4	5
Person to person payments		X			
Retail POI payments (domestic, day-to-day point of interaction transactions)		X			
Intra-EU cross-border payments (non-POI)		X			
International payments and remittances (third countries)				X	
Settlement of tokenised securities and other financial instruments				X	
Delivery-versus-payment (DvP) and atomic settlement				X	
Intraday liquidity management (real-time funding and liquidity optimisation)					X
Treasury and liquidity management services for corporates and financial institutions					X
Programmable payments and smart-contract-based use cases			X		
On-chain collateral or margining in regulated markets				X	
Improved settlement speed and operational efficiency					X
Reduction of counterparty and settlement risk				X	

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

Tokenised deposits preserve all the defining features of commercial bank money, convertibility at par, credit intermediation, regulatory oversight, while making it available on-chain. Their strongest value lies in wholesale use cases, in combination with wCBDC, where a trusted cash leg must coexist with tokenised assets on the same ledger: atomic DvP settlement, intraday liquidity optimisation and corporate treasury. Retail P2P circulation is not their purpose: unlike bearer-instrument stablecoins, tokenised commercial bank money circulates only within a credit institution or a network of KYC-compliant participants.

The two most promising use cases are, in our view,⁵⁰ (i) settlement of tokenised securities through atomic DvP and (ii) intraday liquidity and treasury management.

On the first, the full benefit of DLT materialises only when assets and their cash leg coexist on the same ledger, enabling counterparty-risk-free atomic settlement. As tokenised securities markets develop in Europe, tokenised deposits are the natural cash leg. They carry no depeg risk, are always redeemable at par into traditional commercial bank money and central bank money, and thus fully preserve the singleness of money.

On the second: programmable, 24/7 settlement opens material efficiency gains in real-time funding, for instance instant repo transactions settled against tokenised deposits.

A decisive systemic advantage over stablecoins deserves emphasis: tokenised deposits retain the elasticity of commercial bank money. They expand through the ordinary credit-creation process, require no pre-funding, and therefore preserve banks' capacity to finance the economy, which fully collateralised stablecoins, by construction, do not.

The use cases contemplated across the different models include multi-currency cross-border payments, instantaneous intragroup transfers available 24/7, delivery-versus-payment settlement of capital markets transactions, smart contract-automated trade payments, and the use of tokens as financial collateral.

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

Several constraints currently hold back development in the EU.

Legal incompleteness and fragmentation: while "two-layer" tokenised deposits (a token mirroring an existing account) rest on settled ground, the framework for deposit tokens (bank liabilities issued directly on DLT and circulating within a contractual network of whitelisted participants) remain to be designed.

Prudential treatment: under the Basel crypto-asset standard (SCOB60), even tokenised deposits sharing the same legal and economic characteristics as traditional deposits (group 1a) cannot be treated as stable retail deposits for LCR/NSFR purposes, and remain exposed to a discretionary "infrastructure risk add-on". Both features penalise economically identical liabilities solely because of the recording technology.

Lack of standardisation: no common smart-contract standard for tokenised commercial bank money, and no established conversion mechanism between deposit tokens of different banks.

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.

Supervisory guidelines or a specific FAQ from the EBA would be helpful as any other type of regulatory action may not meet the timely need to issue tokenised deposits. Some questions/issues are decisive, notably:

- Is it possible to have e-money, other than EMT, on a DLT?
- Risk of requalification with e-money in general
- Risk of requalification with EMT
- How to render the transfer of the deposit token irrevocable and enforceable?

The guiding principle should be strict technological neutrality: tokenised deposits sharing the legal and economic characteristics of traditional deposits should receive strictly equivalent legal and prudential treatment, i.e. identical capital, liquidity and deposit-guarantee treatment. Specifically: (i) establish a harmonised EU legal framework enabling standardised issuance of deposit tokens in all Member States; (ii) support industry coordination on a common smart-contract standard and an interbank conversion mechanism, (iii) revise the EU implementation of the Basel treatment as set out in our reply to Question 78, (iv) on the Eurosystem side, extend operating hours of payment and collateral systems, make tokenised assets eligible as ECB collateral without a CSD-registration condition, and pursue the availability of central bank money on-chain, leveraging PONTES and the Appia workstream as the settlement anchor.

Question 78. Do tokenised deposits raise any specific issues under the CRD/CRR framework? If so, please indicate what issues arise and what regulatory or supervisory action may be appropriate to address the issue(s) identified.

Two issues arise, at the BCBS level. First, liquidity treatment: where tokenised deposits and deposit tokens share the same legal and economic characteristics as traditional deposits and fall within subgroup 1a of the BCBS standard (SCO60, December 2022), they should receive LCR and NSFR treatment strictly identical to that of their traditional equivalents. The current standard (SCO60.107(1)(b)) prevents issuing banks from classifying such liabilities as stable retail deposits, a divergence with no risk-based justification, contrary to technological neutrality. Second, the discretionary infrastructure risk add-on applicable to group 1 assets should be removed: it addresses risks already captured by existing prudential requirements, creates regulatory uncertainty that discourages tokenisation initiatives, and invites unjustified cross-jurisdictional divergence and arbitrage.

Question 79. Do tokenised deposits raise any questions and challenges from a deposit insurance perspective? If you identify any questions or challenges, please indicate which supervisory or regulatory action is appropriate to address the issues identified.

A tokenised deposit represents exactly the same claim on the issuing institution as a traditional deposit, accounted for identically on both the bank's and the client's balance sheet. Deposit guarantee scheme coverage should therefore apply on strictly identical terms. This equivalence is a precondition for the development of tokenised deposits in Europe, and it would be useful for the review to confirm explicitly that DGSD protection operates in a technology-neutral manner.

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 represents¹³. 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.

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

- ☒ Yes
☐ No

If you believe **there is material legal uncertainty in issuing, holding and transferring tokens** (i) which of the following issues are most significant and (ii) what is the urgency with which each issue should be addressed by regulators?

Scales used:

- Significance of legal uncertainty: 1 = None or Not significant · 2 = Low · 3 = Moderate · 4 = High · 5 = Very high
- Urgency of regulatory clarification or action: 1 = None or Not urgent · 2 = Low urgency · 3 = Moderate urgency · 4 = High urgency · 5 = Immediate / critical

Issue	Significance of legal uncertainty					Urgency of regulatory action				
	1	2	3	4	5	1	2	3	4	5
Issuing a crypto-asset token in compliance with national law	X					X				
Issuing a tokenised financial instrument in compliance with national law				X					X	

Transferring ownership (acquisitions, dispositions, earmarking, etc.) over a token, including good faith acquisition / bona fide ownership				X					X	
Recognising ownership in a token towards third-parties				X					X	
Using tokens as collateral				X					X	
Possibility to differentiate between native and non-native tokens in national law		X					X			
Recognising tokens as objects of property				X					X	
Rights of token holders in intermediated custody chains				X					X	
Enforcement and exercise of rights arising from /over tokens or the underlying assets			X					X		
Custody of tokens					X					X
Treatment of tokens in insolvency proceedings including intermediary risk			X					X		
Others										

Please explain your reply 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.

Most issues appear for security tokens that are issued in a native form. Indeed, non-native security tokens follow the regime of the underlying asset. Native security tokens may represent a challenge depending on the approaches of national laws.

As the legal treatment of tokens is determined at national law level (property law), disparities may appear between EU countries. Indeed, property law being determined at national level, there is currently no harmonization within the European Union.

As an example, custody services on tokens may be possible in some jurisdictions but restricted or unavailable in others, depending on the applicable national laws.

National approaches remain fragmented. Some jurisdictions have introduced detailed, and in some cases more stringent or bespoke, regimes for tokenised financial instruments, while others rely on the principle of technology neutrality and apply the same legal framework irrespective of the technology used.

Consequently, similar assets may be treated differently within a same jurisdiction, depending if they are issued onchain or offchain.

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

☒ Yes

☐ No

Question 81.1 If YES, what are the **3 most important elements that should be addressed in EU law**? Please explain your answer and provide examples.

- The principle of technology neutrality should be set as a guiding regulatory objective for Member States. Similar legal treatment for a same asset – whatever the technology used within national laws shall be the rule. As an example, some national regulations may lead to the issuance of units of a UCI within the same sub-fund but in different forms – while the investment strategy is the same and there is no CSD or specific structure involved – hence having an impact on the type of service a depositary will be able to provide.
- Similar assets should be treated consistently across EU Member States, based on a minimum functional approach. These assets circulate across borders, not within a single jurisdiction. It is true for tokenized financial instruments but even more for crypto assets. National frameworks should not create unnecessary obstacles for the financial sector when providing services related to these assets/Therefore, to help the financial sector in providing services on these assets, the local legal treatment should not hinder this aspect.
- Request for clarification of the recognition of crypto assets by national laws (eg intangible movable assets or real object). This will help determine the legal treatment applicable to this kind of asset. In the best-case scenario, this recognition may be harmonized at EU level.

Question 81.2 If you believe there is a lack of legal certainty regarding tokens, **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?

Rank the below possible measures from 1 to 5.

1. Strongly disagree
2. Rather disagree
3. Neutral
4. Rather agree
5. Strongly agree

	1	2	3	4	5
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)					X
Full harmonisation of private law treatment of tokens in Member States			X		
Partial harmonisation of private law treatment of tokens in Member States				X	
Introducing a conflict of law regime for tokens under EU law				X	
Other model					

Please **explain your response** 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.

Full harmonization of private law treatment may bring more legal certainty to practitioners and the financial industry. However, it is necessary to avoid substitution of national law by EU laws in this respect. As such, full harmonization may be unpracticable. In addition, it entails a full revamping of private law for all EU Member States – this kind of work will take decades.

Partial harmonization may be possible but only on new types of assets, such as crypto assets. Legal treatment of security tokens will face the same hurdle as full harmonization. As such, this option would be possible only within MiCA.

One possibility would be to have a minimal functional approach through a dedicated regime that would be harmonized throughout the EU. The 28th regime would be the best candidate in this respect. However, this option would entail some consequences as the same type of asset may be issued through 2 different regimes (eg the 28th regime and a local regime) but may not face the same legal treatment.

A conflict of law regime is not sufficient by itself to create legal certainty. It helps in determining which regime shall apply, but the risks linked to the lack of harmonization of private law at EU level still exist. Therefore, this option is a necessity but shall go hand-in-hand with the creation of an ad hoc regime like the 28th regime.

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.

Ownership model	
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.	X
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.	X
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.	

Please **explain your answer and provide examples**, and in answering the question, please answer the following sub-questions:

- 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?
- 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?
- Are the **different ownership models** better suited for native or non-native tokens?
- Can the same ownership model be implemented **for all types of tokens** (crypto-assets and DLT financial instruments) and if not, what would need to be different depending on the type of the token?

The same ownership model should not automatically apply to all tokens. Crypto-assets natively issued on-chain and tokenised financial instruments representing off-chain rights do not raise the same legal

issues. EU law should therefore allow for differentiated treatment depending on the type of token and the legal structure used.

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

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

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

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.

From our own experience with few Member States on the issuance, holding and transfer of natively tokenized instruments, some are technology-agnostic and consider that a tokenized version of a financial instrument is the same as the one issued off chain. The main example is Luxembourg where titles can still be issued under the registered form even if it is done onchain. New regimes may also be created in addition to existing one, such as what the Blockchain law IV has done for dematerialized titles.

Others may directly or indirectly create specific new legal regimes for exactly the same type of asset - which have as a consequence to reshuffle the understanding on how certain titles shall be issued, held or transferred onchain. The main example is France with notably the article R 211-2 of the French Monetary Code. According to the new version of this article, units of funds – which are traditionally issued under the bearer (au porteur) form offchain and therefore held in custody (in bank assets) – will only be able to be issued under the nominative form (nominatif) onchain, hence not being able to be custodied (not in bank assets).

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 law¹⁵ 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

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

Two situations shall be distinguished: tokens that are qualified as assets already benefiting from conflict of law rules and tokens that cannot be linked to existing rules in any way.

Indeed, current EU conflict-of-law rules are not sufficient because they only address limited categories of situations and do not cover all token structures. They do not provide a sufficiently clear and comprehensive solution for determining the law applicable to ownership, transfer, collateral and proprietary effects in relation to tokens, especially outside the existing scope of the Settlement Finality and Financial Collateral frameworks.

At the same time, any new EU rule should remain limited to what is strictly necessary. It should not weaken the existing European securities law acquis by replacing well-established principles with overly contractual or technologically unstable connecting factors.

Question 84.2 If the EU would **introduce conflict of law rules for proprietary aspects of tokens**, what would be the preferred connecting factors. Rank the below listed connection factors from 1 to 5 (1 being the most relevant connecting factor and 5 the least relevant connection factor). Connecting factors without a ranking will be considered not relevant.

Connecting factor	Waterfall 1-5
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	3
The law of the state in which the legal entity operating the DLT-based system on which tokens are recorded	2
In relation to a token for which there is an issuer, the law of the state where the issuer is established	4
In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates	5
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	1
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 response 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.

The preferred connecting factors should be ranked as follows:

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

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

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

As a final point, conflict of law rules shall also comply with the technology-neutrality principle. Security tokens being financial instruments, conflict of law rules with regards to these traditional financial instruments shall apply. For new types of instruments, namely crypto-assets regulated under MiCAR, specific conflict of law rules may apply if the ones of the traditional financial instruments may be difficult to follow.

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.

Any future amendment to MiCA should be developed in a manner that ensures full coherence with existing and forthcoming regulatory frameworks, while respecting the principle of technological neutrality.

It is equally important to avoid unnecessary regulatory burdens and the duplication of requirements for entities that are already subject to robust regulatory oversight under other legal regimes.

Finally, to foster a competitive, integrated, and workable financial and crypto-asset ecosystem across the European Union, Member States should refrain from imposing additional national requirements beyond the harmonised framework of MiCA. Regulatory gold-plating should be avoided.