

FESE response to the Commission targeted consultation on the review of Regulation on the Markets in Crypto-Assets (MiCA)

29th September 2026

1. 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

Q1: Should crypto-assets that qualify as financial instruments as defined in [Directive 2014/65/EU](#) of the European Parliament and of the Council, continue to be governed by 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
- ☐ Don't know / no opinion / not applicable

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

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

Question 1.2 Please explain your answer to question 1.1 and suggest any policy actions for clarification if needed (5000 character(s) maximum):

Maintaining the MiFID-MiCA delineation

FESE strongly supports maintaining the current approach, whereby crypto-assets that qualify as financial instruments under Directive 2014/65/EU (MiFID II) remain governed by existing sectoral legislation (MiFID/MiFIR, MAR, Prospectus Regulation, etc.), rather than being brought within the scope of MiCA.

This approach is essential to preserve a technology-neutral and activity-based regulatory framework. The classification of an asset should depend on its economic function and legal characteristics, not on the technology used for its issuance, recording, or transfer (e.g. distributed ledger technology).

In this regards, we would like to underline:

- Crypto-assets qualifying as financial instruments must be subject to the existing financial markets framework, including MiFID II/R and related legislation.
- The fact that an instrument is tokenised or recorded on DLT should not alter its regulatory treatment.
- Where a crypto-asset (including hybrid tokens) exhibits characteristics of a financial instrument at any stage in its lifecycle, those characteristics should take precedence in determining the applicable regime, in line with the ESMA guidelines on the qualification of crypto-assets as financial instruments.

Taking everything into account, the existing delineation between MiFID-regulated instruments and MiCA-regulated crypto-assets provides the necessary legal clarity for market participants and should not be blurred but rather further clarified during the MiCA Review. Any erosion of this boundary risks creating regulatory ambiguity that could undermine investor protection and market integrity.

Technology neutrality and consistent application

At the same time, FESE supports a forward-looking and innovation-friendly regulatory approach that embraces both technological and regulatory developments. Should policymakers consider adapting existing regulatory standards to better accommodate tokenisation, it is essential that such adjustments are applied consistently across all technologies.

Addressing supervisory gaps

Finally, the gap that this review should address lies not in the rules themselves, but in the lack of supervisory reach over venues that offer these instruments to EU clients without authorisation.

The key concern is the supervisory gap left by decentralised exchanges (DEXs), which fall outside of MiCA's scope and offer instruments that qualify as MiFID financial instruments without corresponding competent authority oversight. This gap leaves European retail investors unprotected and allows unregulated price formation to feed into regulated contracts, for example energy derivatives as well as equity derivatives referencing European issuers.

Q2: To what extent have ESMA's MiCA Article 2(5) guidelines and the joint ESA standardised classification test reduced uncertainty in practice? Which borderline cases remain difficult?

Please explain your response and suggest any policy actions for clarification if needed (5000 character(s) maximum).

1.2. Transparency rules and ex post supervisory control regime

Q3: Title II establishes disclosure, marketing, conduct and liability rules for public offers and admission to trading of crypto-assets other than ART and EMT.

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

a) Please assess each provision below along their adequacy:

	1 (completely inadequate)	2 (mostly inadequate)	3 (neutral)	4 (moderately adequate)	5 (fully adequate)	Don't know/No opinion / Not applicable
Exemptions for offers to <150 persons per Member State, small offerings (<€1m over 12 months), and qualified investors (Article 4(2))	☐	☐	☐	☐	☐	☐
White paper disclosure framework (Article 6): issuer information, crypto-asset characteristics, tokenomics, risks, use of proceeds	☐	☐	☐	☒	☐	☐
Marketing requirements: identifiable, fair, clear, not misleading and consistent with the white paper (Article 7)	☐	☐	☐	☐	☐	☐
Ex ante notification model without prior regulatory approval (Article 8)	☒	☐	☐	☐	☐	☐
Obligation to modify/update the white paper for significant new factors, material mistakes or	☐	☐	☐	☐	☐	☐

inaccuracies (Article 12)						
Retail investor right of withdrawal (14 days), excluding assets already admitted to trading or after subscription period ends (Article 13)	☐	☐	☐	☐	☐	☐
Conduct obligations: honesty, fairness and professionalism, clear communications, conflicts management, and effective systems and security arrangements (Article 14)	☐	☐	☒	☐	☐	☐
Civil liability for inaccurate, misleading or incomplete white paper information (Article 15)	☐	☐	☐	☐	☐	☐
Overall balance between investor protection, market integrity and innovation under Title II	☐	☐	☒	☐	☐	☐

Please explain your ratings in question 3 a), focusing on the issues you deem most significant regarding the overall balance between investor protection, market integrity and innovation (5000 character(s) maximum):

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

	1 (should be significantly weakened)	2 (should be somewhat weakened)	3 (should remain unchanged)	4 (should be somewhat strengthened)	5 (should be significantly strengthened)	Don't know/No opinion / Not applicable

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Exemptions for offers to <150 persons per Member State, small offerings (<€1m over 12 months), and qualified investors (Article 4(2))	☐	☐	☐	☐	☐	☐
White paper disclosure framework (Article 6): issuer information, crypto-asset characteristics, tokenomics, risks, use of proceeds	☐	☐	☐	☐	☐	☐
Marketing requirements: identifiable, fair, clear, not misleading and consistent with the white paper (Article 7)	☐	☐	☐	☐	☐	☐
Ex ante notification model without prior regulatory approval (Article 8)	☐	☐	☐	☐	☐	☐
Obligation to modify/update the white paper for significant new factors, material mistakes or inaccuracies (Article 12)	☐	☐	☐	☐	☐	☐
Retail investor right of withdrawal (14 days), excluding assets already admitted to trading or after subscription period ends (Article 13)	☐	☐	☐	☐	☐	☐
Conduct obligations: honesty, fairness	☐	☐	☐	☐	☐	☐

and professionalism, clear communications, conflicts management, and effective systems and security arrangements (Article 14)						
Civil liability for inaccurate, misleading or incomplete white paper information (Article 15)	☐	☐	☐	☐	☐	☐
Overall balance between investor protection, market integrity and innovation under Title II	☐	☐	☐	☐	☐	☐

Please explain your ratings in question 3 b), focusing on the issues you deem most significant regarding the overall balance between investor protection, market integrity and innovation (*5000 character(s) maximum*):

Q4: Based on initial implementation experience under MiCA, please assess the extent to which the following issues remain a concern:

	1 (not serious concern at all)	2 (rather not serious concern)	3 (neutral)	4 (rather serious concern)	5 (extremely serious concern)	Don't know/No opinion / Not applicable
Inadequate or non-comparable disclosure clarity or complexity to retail investors in Title II white papers	☐	☐	☐	☐	☐	☐
Fraudulent or misleading crypto-asset offerings affecting EU investors	☐	☐	☐	☒	☐	☐
Lack of clear and enforceable investor rights for	☐	☐	☐	☒	☐	☐

crypto-asset holders						
Insufficient issuer governance or accountability in crypto-asset projects e.g. monitoring of the use of funds by issuers after the offering period	☐	☐	☐	☒	☐	☐
Regulatory arbitrage, including activity shifting outside the EU	☐	☐	☐	☐	☐	☐
Promotions by social media, influencers, sponsorships	☐	☐	☐	☒	☐	☐
Post-issuance token value erosion or project failure affecting EU retail investors	☐	☐	☐	☐	☐	☐
Market manipulation practices (e.g. wash trading, price manipulation) in crypto-asset markets	☐	☐	☐	☒	☐	☐
Misaligned incentives between crypto-asset issuers and investors (e.g. insider allocations, weak lock-ups)	☐	☐	☐	☒	☐	☐
Difficulty in assessing issuer quality and project credibility for EU investors	☐	☐	☐	☒	☐	☐
Cross-border enforcement and supervisory coordination challenges within the EU	☐	☐	☒	☐	☐	☐

Cross-border enforcement and supervisory coordination challenges with third countries authorities outside of the EU	☐	☐	☐	☐	☐	☐
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Please explain your ratings in question 4, focusing on the issues you deem most significant and add any additional issues that you deem highly important (5000 character(s) maximum):

“Same activity, same risk, same rules” principle

Overall, with regard to market integrity concerns (e.g. wash trading, price manipulation), we would like to highlight the need for a consistent regulatory approach. Policymakers should either apply standards equivalent to MiFID II/MAR to tokenised assets or, if regulatory adjustments are deemed necessary, ensure that these are applied consistently across all technologies to avoid regulatory asymmetries and arbitrage.

From the perspective of a regulated market, we fully support innovation in financial markets, as long as it adheres to the principles of transparency, investor protection, and trading in the best interest of investors. However, we observe a clear imbalance in the regulatory treatment of traditional financial instruments, established crypto-assets such as Bitcoin, Ethereum and stablecoins, and the large and growing segment of more speculative crypto-assets. There is a need for a more differentiated and risk-sensitive regulatory approach.

Retail investor risks associated with speculative crypto-assets

Importantly, there should be a clearer distinction between established crypto-assets and the high volume of speculative tokens currently accessible to retail investors. Many of these speculative assets are characterised by elevated default risks, susceptibility to market manipulation, and a lack of transparency. These risks are especially concerning given that retail investors may not fully understand their nature or extent.

A significant number of speculative crypto-assets offer limited underlying economic value and insufficient disclosure. These assets can range from ICO-coins to tokens tied to short-lived trends, often attracting (less experienced) retail investors with the promise of high short-term returns. However, events such as the 2021 “rug-pull” scams and the 2022 Terra/Luna collapse highlighted significant risks, including extreme price volatility, low liquidity, concentrated ownership (e.g., among token founders), and information asymmetries regarding token economics and ownership structures. Analysis of the 2022 market turmoil suggest that many retail investors suffered substantial losses, which were magnified by sophisticated investors often exiting their positions before price declines while smaller investors continued to buy. This evidence underscores the need for stronger investor protection in crypto markets and raises important questions about the credibility of more speculative crypto assets and the appropriateness of their broad accessibility to non-professional investors.

Enhanced investor protection and safeguards

As a regulated market that places investor protection at the core of its activities, we strongly support the introduction of stricter regulatory requirements for such speculative crypto-assets. This should include enhanced standards for transparency, classification, and continuous monitoring by CASPs.

Stronger regulation would help ensure that only crypto-assets meeting minimum credibility and transparency thresholds are widely accessible, thereby reducing investor

harm and improving overall market integrity. At the same time, it would contribute to a more balanced and consistent regulatory framework across asset classes, aligned with the underlying risk profile of each product.

For more on our proposed approach to marketing speculative crypto-assets, see below.

Q5: Should additional measures either at the issuance stage or during the marketing and distribution of crypto-assets, be considered?

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

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

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

Given the risks outlined above, a necessary and proportionate next step would be the restriction or the full prohibition of marketing of high-risk crypto-assets.

We support the principle that financial products should be offered to investors, both institutional and retail, in a fully transparent manner, in the best interest of the client, and with a focus on investor protection. Speculative crypto-assets typically lack the fundamental safeguards of more traditional financial instruments. As an example, listed derivatives are subject to a comprehensive set of rules, including pre- and post-trade transparency requirements, and robust safeguards and controls. Investor protection is enhanced through the guarantee of a central counterparty (CCP), which mitigates counterparty risk, increases resilience, and supports market integrity. UCITS funds, which are widely marketed to retail investors specifically, are subject to strict liquidity requirements and diversification rules, too.

By contrast, speculative crypto-assets often operate without equivalent transparency, liquidity guarantees, or mechanisms to mitigate market abuse and counterparty risk. As a result, retail investors are exposed to significantly higher and less predictable risks, which are frequently not fully understood.

In this context, unrestricted marketing of such products creates a clear risk of consumer harm. Retail investors specifically may be attracted by aggressive or misleading promotion without a proper understanding of the underlying risks and lack of safeguards.

We therefore strongly support the introduction of strict limitations or ban on the marketing of high-risk crypto-assets to retail clients. Such measures would be proportionate to the risk profile of these instruments and aligned with the EU's broader investor protection objectives. This would also ensure that speculative crypto-assets are not afforded a lighter marketing regime than safer and standardised financial instruments.

Q6: What administrative simplification or burden reduction measures should be considered under title II and its implementing measures and technical standards (5000 character(s) maximum)?

Administrative simplification should focus on reducing overlap between Level 1, Level 2 and Level 3 requirements, improving access to up-to-date RTS/ITS/guidance and creating a central digital portal for MiCA materials.

For Title II, the Commission should consider a shorter standardised white paper template that allows investors to compare offers more easily, while allowing more detailed documentation where needed. Updates should be streamlined so that technical changes do not require duplicative amendments across multiple documents. Where possible, filings should be made through one central NCA interface with easy digital access to current and archived versions.

Q7: 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)?

In practice, the most challenging cases for classification are those crypto-assets that either combine different economic features or blur the distinction between financial instruments and other types of crypto-assets. Based on FESE's experience, the following categories remain particularly difficult:

- Hybrid tokens

Hybrid tokens remain the most complex category, as they may exhibit characteristics of financial instruments at certain stages of their lifecycle. FESE has consistently emphasised that, in such cases, **financial instrument characteristics should take precedence**, but further clarity is needed to ensure a consistent application of this principle across jurisdictions. Evolving hybrid products call for a more coordinated taxonomy of crypto assets, including with other major jurisdictions such as the US.

- Wrapped assets or synthetic exposures

Assets that replicate or provide exposure to underlying financial instruments (e.g. through "wrapping" or synthetic structures) present difficulties in determining whether they should be treated as financial instruments or as separate crypto-assets. FESE emphasises that **tokenised securities should offer the same benefits and rights as their traditional counterparts**. Digital assets that, instead, mimic these features may mislead investors, creating a wrong impression that they are investing into tokenised securities. Regulatory clarity, along with targeted awareness-raising initiatives, is essential for crypto asset categorisation.

In addressing these classification challenges, FESE considers it important to maintain a balanced approach that supports innovation while preserving regulatory consistency. Where technological developments or policy choices lead to adjustments in the regulatory treatment of tokenised instruments, these should not result in differentiated standards for instruments that are equivalent in substance.

Q8: Are the current Title II mechanisms sufficient to ensure meaningful updates to investors after issuance, including where project governance, tokenomics, vesting schedules or control rights change materially?

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

Please explain your answer to question 8 (5000 character(s) maximum):

2. 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

Q9: Looking 5-10 years ahead, how strongly do you agree with the following visions for the role of stablecoins in the EU?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know/No opinion / Not applicable
A mainstream digital means of payment for retail transactions within the EU	☒	☐	☐	☐	☐	☐
A mainstream digital means of payment for wholesale transactions within the EU	☐	☐	☒	☐	☐	☐

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

Please explain your answers to question 9 (5000 character(s) maximum):

FESE agrees that stablecoins can play an important role in supporting the development of tokenised financial markets, in particular by providing a “cash leg” for tokenised settlement. To fully unlock the potential of DLT, it is essential that the cash leg of transactions can also operate “on-chain”.

In contrast to the traditional financial system, where both commercial bank money and central bank money coexist, we anticipate a similar need for the coexistence of different forms of on-chain money within the DLT ecosystem, such as MiCA-compliant stablecoins (EMTs), tokenised bank deposits, and a wholesale digital euro.

The regulatory framework should evolve to accommodate the instruments that underpin liquidity and risk management in on-chain markets. Stablecoins, particularly those backed by high-quality reserve assets and subject to the robust issuance and reserve requirements under MiCA are well-suited to serve as collateral and as a settlement instrument within central clearing and settlement.

Excluding stablecoins from the pool of recognised collateral and clearing/settlement instruments would force market participants to maintain parallel liquidity arrangements,

thereby increasing operational complexity and cost without a commensurate reduction in risk. The MiCA Review should therefore explicitly enable the use of MiCA-regulated stablecoins as eligible collateral and settlement assets within central counterparty (CCP) frameworks and CSDR.

In this context, FESE welcomes the inclusion of EMTs in the DLTPR and CSDR, as part of the Market Integration and Supervision Package (MISP), enabling the settlement of securities transactions in e-money tokens. We believe that it is necessary to expand the pool of eligible assets under CSDR and EMIR to include all MiCA-compliant stablecoins, including asset-referenced tokens, as well as tokenised commercial bank money, money market funds, and wholesale CBDC.

At the same time, the ECB trials have already demonstrated the feasibility of settling transactions in central bank money via DLT, underlining the strategic value of on-chain fiat money. To further optimise DLT-based settlement, it is crucial to move beyond pilot phases and accelerate the deployment of, at least, a wholesale digital euro. This would enable atomic, programmable delivery-versus-payment with finality in central bank money - a goal supported by promising ECB initiatives such as Pontes and Appia, though timely implementation remains key.

We stand ready to integrate all forms of money on-chain, such as stablecoins, tokenised bank deposits, and wholesale digital euro, once available, across our digital value chains and payment legs.

Q10: The following question explores the current and potential benefits of stablecoins (both EMTs and ARTs) for different use cases. For each use case below, please indicate how beneficial stablecoins would be for EU users:

	1 (not beneficial)	2 (moderately beneficial)	3 (neutral)	4 (beneficial)	5 (very beneficial)	Don't know/No opinion / Not applicable
International payments (non-EU cross-border remittances or transfers)	☐	☐	☐	☒	☐	☐
Intra-EU payments (domestic and EU cross-border payments)	☐	☒	☐	☐	☐	☐
Crypto trading and liquidity provision	☐	☐	☐	☐	☐	☐
Retail payments - Person to Person	☒	☐	☐	☐	☐	☐
Retail payments - Person to Business (POI payment to merchants including	☒	☐	☐	☐	☐	☐

e-commerce)						
Retail payments - Business to Business	☒	☐	☐	☐	☐	☐
Wholesale payments (between financial institutions)	☐	☐	☒	☐	☐	☐
Settlement of tokenised financial instruments (e.g., digital bonds, securities)	☐	☐	☒	☐	☐	☐
Corporate treasury management	☐	☐	☒	☐	☐	☐
Access to programmable or smart contract-based financial services (DeFi applications)	☐	☐	☒	☐	☐	☐
Provision of financial services in underserved regions in the EU	☐	☒	☐	☐	☐	☐
Others	☐	☐	☐	☐	☐	☐

Please explain shortly your assessment and expectations in question 10 as regards the benefits of stablecoins for EU users and, where relevant, any potential risks (5000 character(s) maximum):

Regulated e-money tokens (EMTs) under MiCA offer some benefits for EU users across both retail and wholesale segments. They enable faster, cheaper and more transparent cross-border payments by reducing reliance on traditional correspondent banking chains. For capital markets, stablecoins can serve as a 24/7 programmable settlement asset for DLT-based transactions, supporting improved liquidity management and automated post-trade processes through smart contracts. Their role, however, should be understood within the broader architecture of digital money. As in the traditional financial system, central bank money remains the ultimate anchor of trust, finality, store of value and singleness of money. A wholesale digital euro, as pursued through the ECB's Pontes and Appia initiatives, is set to fulfil precisely this function in tokenised capital markets by providing a risk-free, neutral settlement layer that eliminates counterparty credit risk and underpins confidence in the entire on-chain ecosystem.

Stablecoins would therefore complement both the wholesale CBDC and tokenised bank money where on-chain fungibility, broader network reach or 24/7 availability is required, but they will not substitute the stability and finality that central bank money provides. The policy objective should therefore not be to elevate any single form of digital money, but to establish a coherent settlement stack in which wholesale CBDC, tokenised deposits

and regulated EMTs coexist, are fully interoperable and together reproduce the proven two-tier monetary system in a digital environment.

Please specify to what other use case(s) you refer in your answer to question 10 (5000 character(s) maximum):

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

Q11.1: To what extent do you think the calculation methods are relevant?

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

Q11.2: To what extent do you think the calculation methods are appropriately calibrated?

	1 (not at all appropriately calibrated)	2 (slightly appropriately calibrated)	3 (moderately appropriately calibrated)	4 (mostly appropriately calibrated)	5 (highly appropriately calibrated)	Don't know/No opinion / Not applicable
Minimum own funds of EUR 350,000	☐	☒	☐	☐	☐	☐
2% of the average reserve of assets	☒	☐	☐	☐	☐	☐

25% of the fixed overheads of the preceding year	☐	☐	☒	☐	☐	☐
Additional own funds for “significant” tokens	☐	☐	☒	☐	☐	☐

Please explain your answers to question 11.1 and 11.2, including your reasoning and any suggestions for recalibration or alternative approaches (e.g. greater risk sensitivity, differentiation by business model, or interaction with reserve and liquidity requirements) *5000 character(s) maximum*:

FESE supports the overall structure of MiCA's own funds framework for EMT issuers, but considers that the current calibration does not adequately reflect the risk profile of EMTs used as settlement instruments in capital markets infrastructure.

For example, whilst a 2% ratio may be adequate for EMTs used primarily as a retail payment instrument, it is insufficient where EMTs are deployed as a settlement asset in financial market infrastructure. For instance, as a cash leg in DvP settlement or as collateral in CCP margining. In a settlement context, the systemic consequences of an issuer's failure to meet redemption obligations at the moment of settlement finality are materially different from a retail payment default. Settlement fails can cascade and trigger replacement cost risk, margin calls, and potential gridlock across interconnected systems.

FESE therefore recommends that, where EMTs are designated or used as a settlement tool within regulated financial market infrastructure, a differentiated reserve custody requirement should apply. At least 30-50% of reserve assets should be held with a custodian that is directly mapped to the stablecoin's settlement function, ensuring that liquid reserves are available precisely at the point and in the legal form required to honor settlement obligations. Reserves held in dispersed custody arrangements or in assets requiring conversion introduce execution risk at the moment finality must be unconditional. This would also include daily reserves evaluations being published by a regulated FMI to ensure that those coins used as settlement or collateral tool are rendered as trustworthy by the markets and can meet the high standards necessary for institutional adoption.

On the other hand, the significance threshold triggers additional own funds requirements, which is directionally correct. However, the calibration for significant EMTs should also incorporate the settlement use case explicitly. An EMT that is significant by issuance volume but confined to retail payments poses a different systemic risk profile than an EMT that is integrated into wholesale settlement infrastructure, even at a lower issuance volume. We recommend that the European Banking Authority's technical standards on significance criteria be updated to include settlement infrastructure integration as a standalone qualitative trigger, independent of volume thresholds.

The Commission should consider introducing a dedicated prudential sub-category for settlement EMTs, contractually designated for use as the cash leg in regulated settlement systems. This sub-category would attract the enhanced reserve custody requirement described above, as well as alignment with Settlement Finality Directive protections, ensuring that the prudential and legal frameworks are coherent at the moment that matters most, such as when finality is irrevocable and the obligation to deliver reserves is absolute.

Q12: After being in effect for close to two years, no ARTs have been licensed in the EU under MiCA. In your view, does this absence primarily reflect low market interest in ARTs or other reasons?

Please rate each factor below:

	1 (not at all a factor)	2 (rather not a factor)	3 (neutral/ uncertain)	4 (rather a factor)	5 (a major factor)	Don't know/No opinion / Not applicable
Market interests for ARTs	☐	☐	☐	☐	☐	☐
Licencing and regulatory requirements for ARTs	☐	☐	☐	☐	☐	☐

Please explain your answers to question 12 (5000 character(s) maximum):

Q13: If ARTs were to come to market, what do you think is the primary purpose from a consumer/investor perspective: investment or alternative means of exchange/payment? Please explain your answer (5000 character(s) maximum):

2.3. Liquidity and reserve requirements

Q14: MiCA requires issuers of ARTs to establish, maintain, and prudently manage a reserve of assets and appropriate liquidity arrangements to ensure orderly redemptions and mitigate financial stability, liquidity, and operational risks. Additional and enhanced requirements apply to ARTs classified as “significant” under Article 45.

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

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

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

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

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

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

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

and 60%) (Article 36(4), RTS)						
Auditing requirements (Article 36(9))	☐	☐	☐	☐	☐	☐
Custody requirements (Article 37)	☐	☐	☐	☐	☐	☐
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant ARTs (Article 45(3)-(4))	☐	☐	☐	☐	☐	☐

Please explain your answers to question 14 a) and b), including your reasoning and any suggestions for recalibration or alternative approaches (e.g. greater risk sensitivity, differentiation by business model, or interaction with reserve and liquidity requirements) (5000 character(s) maximum):

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Q15: MiCA sets out liquidity and reserve requirements for issuers of EMTs to ensure immediate redemption of tokens, mitigation of credit and operational risk, and resilience under stress scenarios. Additional requirements apply to EMTs classified as “significant” (Article 56).

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

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

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

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

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know/No opinion / Not applicable
Obligation to constitute and maintain a reserve	☐	☐	☐	☐	☒	☐

of assets covering redemption and liquidity risks (Article 36(1))						
Legal and operational segregation of reserve assets from the issuer's own estate and from other token reserves (Article 36(2)-(3))	☐	☐	☒	☐	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☒	☐	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☒	☐	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☐	☐	☐	☐	☒	☐
Custody requirements (Article 37)	☐	☐	☐	☐	☒	☐
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	☐	☐	☒	☐	☐	☐

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

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know/No opinion / Not applicable
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks	☐	☐	☐	☐	☒	☐

(Article 36(1))						
Legal and operational segregation of reserve assets from the issuer's own estate and from other token reserves (Article 36(2)-(3))	☐	☐	☐	☒	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☐	☒	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☐	☒	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☐	☐	☐	☐	☐	☒
Custody requirements (Article 37)	☐	☐	☐	☐	☐	☒
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant EMTs (Article 45(3)-(4))	☐	☐	☐	☐	☐	☐
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	☐	☐	☐	☐	☐	☒

Please explain your answers to question 15 a) and b), including your reasoning and any suggestions for recalibration or alternative approaches (5000 character(s) maximum):

Q16: Under MiCA, credit institutions issuing EMTs are not subject to the reserve asset segregation requirements or the requirement to maintain a reserve of assets applicable to non-bank EMT issuers (Article 58 MiCA). This is consistent with the approach to the regulation of traditional e-money.

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

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

Please explain your answer to question 16, including your reasoning and any suggestions for other/alternative approaches (5000 character(s) maximum):

MiCA should be adjusted to introduce reserve asset segregation requirements for EMTs issued by credit institutions, on a basis consistent with the requirements applicable to non-bank issuers.

The current exemption reflects the traditional e-money regulatory logic, under which a credit institution's balance sheet, subject to prudential capital requirements, deposit guarantee schemes, and resolution frameworks, was considered a sufficient substitute for explicit reserve segregation. That logic does not translate cleanly to EMTs. An EMT is not a deposit but rather a digital bearer instrument whose holders may have no direct claim on the issuing institution's general estate in insolvency, and whose use as a settlement asset creates obligations that must be honored at a precise legal moment, irrespective of the issuer's broader financial condition.

The core principle that should guide recalibration is simple: the nature of the reserve obligation follows the instrument, not the issuer type. Otherwise, it would concentrate reserve assets on bank balance sheets that are themselves subject to stress in precisely the scenarios such as liquidity crises or bank resolution where EMT holder protections matter the most.

FESE therefore recommends that Article 58 MiCA be amended to remove the blanket exemption for credit institutions and replace it with a harmonised reserve segregation standard applicable to all EMT issuers, calibrated to the systemic risk profile of the instrument rather than the regulatory category of the issuer. Implementation should allow for a proportionate transition period to avoid disruption to existing bank-issued EMT programmes, but the end-state should be a level playing field on reserve protection.

2.4. Criteria for determining significance

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

Q17: Do you think the following quantitative criteria thresholds used to classify EMTs or ARTs as “significant” should be adjusted, and if so how?

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

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

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

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

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

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

	1 (significantly decreased)	2 (somewhat decreased)	3 (kept as is)	4 (somewhat increased)	5 (significantly increased)	Don't know/No opinion / Not applicable
Number of holders / users exceeding 10 million (Articles 43(1)(a) and 56)	☐	☐	☐	☐	☐	☐
Total outstanding value / market capitalisation	☐	☐	☐	☐	☐	☐

exceeding EUR 5 billion (Articles 43(1)(b) and 56)						
Transaction volume or value per day (average 2.5 million transactions and EUR 500 million) (Articles 43(1)(c) and 54)	☒	☐	☐	☐	☐	☐

Please explain your answers to question 17 a) & b), including your reasoning and any suggestions for other/alternative approaches (5000 character(s) maximum):

The current quantitative thresholds for significance classification are broadly structured correctly but require recalibration in one important respect - volume and user count alone are insufficient proxies for systemic relevance. The more consequential dimension, institutional use in financial market infrastructure, is not captured by any of the current criteria, and this is the gap that MiCA Review must address.

Q18: Do you think the qualitative criteria used to classify EMTs or ARTs as “significant” under MiCA should be adjusted?

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

If yes, please explain how you think the qualitative criteria for classifying EMTs or ARTs as “significant” should be adjusted (5000 character(s) maximum):

If no, please explain your answer to question 18 (5000 character(s) maximum):

Q19: Are there any additional criteria or metrics that should be added to determine “significant” tokens?

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

If yes, please specify which criteria or metrics and explain why (5000 character(s) maximum):

If no, please explain your answer to question 19 (5000 character(s) maximum):

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.

Q20: In your view, should the MiCA prohibition on granting interest or any interest-equivalent remuneration be modified?

a) For EMTs:

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

Please explain your answer to question 20 a) (5000 character(s) maximum):

By allowing interest these instruments can be held without disadvantages compared to fiat. Otherwise, users will get the instrument, use it, and then sell it to get access to interest. In addition, users who want to keep holding and still get interest will be forced into DeFi activity at increased risks, in order to generate the interest desired. Prohibiting interest creates an artificial disadvantage versus commercial bank deposits and money market funds that is not risk-justified. Where an EMT is fully backed by segregated reserve assets, the reserve pool generates income regardless of whether it is passed to the holder or retained by the issuer. Where reserve assets are invested in high-quality liquid assets, the economic benefits generated should be capable of being passed through to token holders in a transparent and regulated manner, subject to appropriate disclosure and investor protection requirements. Remuneration should not be marketed in terms that imply deposit guarantee equivalence and should not be funded through issuer risk-taking or leveraged positions in reserve assets.

If yes, please explain why you think interest or interest-equivalent remuneration should be allowed for EMTs, (including any benefits and risks) and specify the conditions under which it should be permitted (5000 character(s) maximum):

b) for ARTs:

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

Please explain your answer to question 20 b) (5000 character(s) maximum):

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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.

Q21: Based on your experience either as a holder of EMTs or as an issuer of EMTs, how have redemption requests been processed and executed in practice by issuers or their agents? What practical problems, if any, have been encountered?

(5000 character(s) maximum):

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Q22: If you hold EMTs and wish to dispose of them, which of the following options would you most likely choose?

a) In a normal market situation

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

b) In a stressed market situation

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

Please explain your answer to question 22 a) and b) (5000 character(s) maximum):

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Q23: 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.

				Don't know/No
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	Weaken	Keep as is	Strengthen	opinion / Not applicable
Permanent right of redemption against the issuer, either at market value (ARTs) or at par (EMTs)	☐	☐	☐	☐
Timing of redemption (timeframe for redemption by the issuer)	☐	☐	☐	☐
Prohibition of redemption fees	☐	☐	☐	☐
Conditions, procedures, and transparency of redemption policies	☐	☐	☐	☐
Supervisory powers to intervene in or trigger redemption plans	☐	☐	☐	☐

Please explain your assessment to question 23, including if a different approach is warranted for significant vs non-significant tokens, or in crisis scenarios and share any suggestions for adjustments you may have (5000 character(s) maximum):

2.7. Stability issues

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

Q24: Articles 46 and 47 require issuers of ARTs and EMT to prepare a recovery plan and a redemption plan in case an issuer cannot comply with reserve requirements e.g. due to significant and sudden requests for redemptions.

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

a) Current MiCA requirements for ARTs

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

b) Current MiCA requirements for EMTs

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

Please explain your assessment to question 24 a) & b), including if a different approach is warranted for significant vs non-significant tokens, and share any suggestions for adjustments you may have (5000 character(s) maximum):

Q25: EMTs issued by authorised e-money institutions (EMIs) could potentially operate with enhanced monetary and financial safeguards.

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

	1 (not at all appropriate / desirable)	2 (slightly appropriate / desirable)	3 (moderately appropriate / desirable)	4 (mostly appropriate / desirable)	5 (highly appropriate / desirable)	Don't know / No opinion / Not applicable
Allowing EMT issuers to deposit their reserve assets directly into central bank accounts	☐	☐	☐	☐	☐	☐
Providing clear rules that ensure the continuity of redemption rights (reserves are safeguarded for the benefit of token holders and are ring-fenced in insolvency, giving these holders an exclusive claim against those	☐	☐	☐	☐	☒	☐

assets) in case of insolvency of the issuer						
Establishing a dedicated resolution regime for EMTs issuing EMTs	☐	☐	☐	☐	☐	☐
Allowing emergency liquidity support / lender-of-last-resort (LOLR) facilities for EMTs issuing EMTs	☐	☐	☐	☐	☐	☐
Others	☐	☐	☐	☐	☐	☐

Please specify to what other policy option(s) you refer in your answer to question 25 (5000 character(s) maximum):

MiCA's current monetary safeguards focus primarily on reserve composition and issuer-level prudential requirements. However, the safeguarding of reserve assets should be complemented by trusted, regulated market infrastructure capable of supporting reserve custody, reserve mobilisation, and redemption processing - including on and off-ramp functions. Without this infrastructure layer, even a well-composed reserve can fail to deliver at the moment it matters most. For example, when a holder demands redemption under stressed market conditions. Anchoring reserve operations within regulated financial market infrastructure reduces concentration and insolvency risk, ensures operationally certain settlement, and provides supervisors with a structurally transparent view of reserve accessibility that issuer-level reporting alone cannot replicate.

Please explain your ratings in question 25, including potential benefits, risks, or implementation challenges (5000 character(s) maximum):

Q26: How appropriate is it to require EMT-issuing EMTs to hold 30-60% of their reserve assets in bank deposits?

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

Please explain your ratings in question 26 and add any suggestions for recalibration or alternative approaches (5000 character(s) maximum):

The requirement to hold 30-60% of reserve assets in bank deposits is not appropriate as a standalone framework. Concentrating reserves in bank deposits reintroduces the very counterparty and insolvency risk that segregation requirements are designed to mitigate, and creates a structural dependency on the health of individual credit institutions. Reserve assets should instead be capable of being held and managed through regulated market infrastructure connected to central bank and securities settlement ecosystems, which offer legally certain custody arrangements, operationally reliable mobilisation, and structural insolvency protections under the Settlement Finality Directive. A framework anchored in such infrastructure better serves the objectives of reserve integrity and redemption certainty than a bank deposit concentration requirement.

2.8. Global stablecoins arrangements and interaction with other regulatory frameworks

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

Q27: What are the potential benefits of global stablecoins for different use cases?

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

	1 (not beneficial)	2 (moderately beneficial)	3 (neutral)	4 (rather beneficial)	5 (very beneficial)	Don't know /No opini on / Not appli cable
International payments (cross-border remittances or transfers,)	☐	☐	☐	☐	☒	☐
Intra-EU payments (domestic and cross-border EU payments)	☐	☒	☐	☐	☐	☐
Crypto trading and liquidity provision	☐	☐	☐	☐	☐	☐
Retail payments - Person to Person	☒	☐	☐	☐	☐	☐
Retail payments - Person to Business (POI payment to merchants including e-commerce)	☒	☐	☐	☐	☐	☐

Retail payments - Business to Business	☒	☐	☐	☐	☐	☐
Settlement of tokenised financial instruments (e.g., digital bonds, securities)	☐	☐	☒	☐	☐	☐
Corporate treasury management	☐	☐	☒	☐	☐	☐
Access to programmable or smart contract-based financial services (DeFi applications)	☐	☐	☒	☐	☐	☐
Provision of financial services in underserved regions in the world	☐	☒	☐	☐	☐	☐
Other potential use cases	☐	☐	☐	☐	☐	☐

Please specify to what other potential use case(s) you refer in your answer to question 27 (5000 character(s) maximum):

Please explain your answers to question 27 (5000 character(s) maximum):

Q28: How important is it for EU users (both people and businesses) to be able to access global stablecoins via EU-based and licenced issuers and CASPs?

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

Issuers						
EU-based and licenced CASPs	☐	☐	☐	☐	☒	☐

Please explain your answers to question 28 (5000 character(s) maximum):

Q29: Based on your experience and assessment, how significant are the following risks associated with a multi-issuance model of global stablecoins for the EU financial system?

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

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

Please specify to what other risk(s) you refer in your answer to question 29. Please elaborate (5000 character(s) maximum):

Please explain the reasoning behind your ratings in question 29. Describe the nature and importance of these risks, the underlying assumptions, market dynamics, or regulatory factors informing your view (5000 character(s) maximum):

While we generally support the concept of a multi-issuance model, we believe that robust risk management safeguards are essential. In particular, reserve funds should be maintained on a proportionate and segregated basis for each participating jurisdiction to ensure the integrity and resilience of the arrangement. Where issuance and redemption volumes differ across jurisdictions, appropriate rebalancing mechanisms should be in place to ensure that reserve levels remain aligned in each jurisdiction.

In order make stablecoins eligible as settlement units, it would also be necessary to give CSDs direct access to the reserve funds, which act as collateral of the stable-coins.

Furthermore, given the potential financial stability, consumer protection, and prudential implications, we are of the view that such arrangements should fall within the scope of the MiCA regulatory framework.

Q30: MiCA does not currently prohibit multi-issuer models, nor does the EU have jurisdiction to determine how third country entities, that also have licensed entities in the EU, should be regulated in third country jurisdictions.

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

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

Please explain the reasons for your response to question 30 and describe the potential implications for the EU market and relevant stakeholders (5000 character(s) maximum):

Q31: MiCA considers that all EMTs that are pegged to or denominated in an EU currency are offered to the EU and therefore fully subject to MiCA issuer requirements.

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

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

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

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

Please explain your answer to question 31 a) & b) (5000 character(s) maximum):

Q32: What are the advantages and disadvantages of this approach for the EU and the international role of EU currencies? (5000 character(s) maximum)

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

Q33: To what extent do you believe that euro-denominated stablecoins can contribute to the following objectives?

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

Please explain your answers to question 33 (5000 character(s) maximum):

2.10. Current safeguards in MiCA

Q34: MiCA provides safeguards to mitigate the risks of multi-issuance stablecoins.

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

	1 (not at all effective)	2 (slightly effective)	3 (moderately effective)	4 (rather effective)	5 (highly effective)	Don't know / No opinion / Not applicable
Restriction of widely used ARTs and EMTs denominated in a currency that is not an official currency of a Member State (Articles 23, 58)	☐	☐	☐	☐	☐	☐
ECB binding opinion powers on withdrawing authorisation and	☐	☐	☐	☐	☐	☐

limit the amounts of ARTs and EMTs (Articles 24(2)(3), 58)						
EU establishment requirement for ART and EMT issuers (Article 16)	☐	☐	☐	☐	☐	☐
Reserve location, composition and liquidity requirements for ARTs and EMTs (Articles 36-38, 45, 54)	☐	☐	☐	☐	☐	☐
The powers of competent authorities listed in Article 94, especially to suspend or prohibit the trading of crypto-assets	☐	☐	☐	☐	☐	☐
National supervisory intervention powers (Article 105)	☐	☐	☐	☐	☐	☐
EBA temporary intervention powers (Article 104)	☐	☐	☐	☐	☐	☐

Please explain your answers to question 34 (5000 character(s) maximum):

Q35: MiCA requires that the reserves of the EMTs and ARTs issued, offered or held in the EU should be held in the EU.

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

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

Please explain your answer to question 35, including any specific remarks with regard to tokens held in unhosted wallets (5000 character(s) maximum):

Q36: Should MiCA redemption rights be explicitly limited to EU holders only?

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

If yes, please explain your answer to question 36, specifying what criteria should be used to determine who qualifies as an EU holder, and providing a rationale for your proposed approach (5000 character(s) maximum):

If MiCA mandates that multi-issued EMT reserves are held in the EU, those reserves exist to back redemptions of EMTs held in EU wallets. The redemption right should follow wallet location, not the holder's legal residence. Therefore, a non-EU entity holding an EMT in an EU wallet has the same claim on EU-held reserves as an EU entity would; limiting redemption by holder domicile creates artificial friction without reducing reserve risk.

The measurement problem is whether issuers can distinguish wallet location with sufficient accuracy for reserve-rebalancing calculations, and if so, they can equally determine who holds those EMTs in the EU. Unhosted wallets present a genuine reporting gap, but this is a transparency issue, not a reason to default to holder domicile as a proxy. This could nonetheless be remedied through limiting the MiCA redemption rights only to EU-hosted wallets.

However, more critical is the timing cutoff: in stressed markets, when EMT holders rush redemptions, the timing of wallet-location snapshots (for eligibility) becomes material. A clear rule is essential, either at issuance, at request, or at settlement, each carrying different operational and fairness implications.

Please explain your answer to question 36 (5000 character(s) maximum):

2.11. Potential additional safeguards

Q37: In a multi-issuance model, reserve assets may be located across jurisdictions and legal entities. Concerns have been expressed that in times of market stress, the transfer or rebalancing of reserves between issuers may be delayed or restricted.

Is this concern valid or substantiated in your view?

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

Please explain your answer to question 37 (5000 character(s) maximum):

Q38: How effective would the following possible additional measures be in mitigating such concerns?

	1 (highly ineffective)	2 (rather ineffective)	3 (neutral / uncertain)	4 (somewhat effective)	5 (highly effective)	Don't know /No opini on / Not appli cable
Introducing requirements that would favour or strengthen the redemption rights of holders of stablecoins that are genuinely circulating in the EU, as opposed to redemption rights associated with stablecoins transferred to the EU in times of stress to take advantage of MiCA protections (including redemption rights)	☐	☐	☐	☐	☐	☐
Restricting direct redemption rights in the EU to holders who are clients of EU-authorized CASPs, while holders that keep the tokens in un-hosted wallets do not have a MiCA guaranteed redemption right in the EU.	☐	☐	☐	☐	☐	☐
Differentiating redemption rights in crisis situations between retail and wholesale/profes	☐	☐	☐	☐	☐	☐

sional holders						
Requiring a dedicated liquidity buffer or additional reserve tranche specifically calibrated to cover short-term redemption spikes in the EU	☐	☐	☐	☐	☐	☐
Strengthening real-time or high-frequency reserve and liquidity reporting to EU competent authorities, including granular disclosure of reserve location and transfer constraints	☐	☐	☐	☐	☐	☐
Establishing binding cooperation arrangements between home and host supervisors to ensure rapid approval and execution of cross-border reserve transfers in stress scenarios	☐	☐	☐	☐	☐	☐
Others	☐	☐	☐	☐	☐	☐

Please specify to what other possible additional measure(s) you refer in your answer to question 38 (5000 character(s) maximum):

Please explain your answers to question 38 (5000 character(s) maximum):

Q39: If you referred in your response to question 38 to adjusting redemption rights, please provide any comments on the operational feasibility, legal implications, proportionality, or potential intended or unintended consequences of such amendments the redemption rights in MiCA as listed above or in any other way (5000 character(s) maximum):

Q40: Do you see merit in introducing an [equivalence regime](#) for global stablecoins in the EU?

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

Please provide reasons for your response to question 40, including any perceived advantages or disadvantages of equivalence regimes (5000 character(s) maximum):

Openness to global innovation and capital flows is a precondition for the EU to remain a primary venue for digital asset activity. An equivalence framework provides the most efficient mechanism to ensure this happens in a structured, supervisory-controlled manner. Rather than prohibiting third-country stablecoins and pushing activity outside the EU's regulatory perimeter, equivalence offers a scalable gateway that maintains market access while preserving oversight capacity. This is consistent with the EU's established approach across financial services regulation.

That said, an equivalence regime must be carefully calibrated. The EU should retain the ability to withdraw or suspend equivalence swiftly in cases of regulatory divergence, and appropriate safeguards should be considered to prevent substitution dynamics that could undermine the international role of the euro. On balance, however, the advantages of a well-designed framework clearly outweigh these manageable risks, keeping the EU competitive and attractive for digital asset innovation without compromising its prudential or monetary policy objectives.

Q41: Equivalence regimes can rely on the third country's regime to various degrees.

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

What rights or benefits should EU issuers derive from equivalence of a third country and what rights or benefits in the EU should issuers from an equivalent jurisdiction receive in the EU? (5000 character(s) maximum)

Q42: What administrative simplification or burden reduction measures should be considered under titles III and IV and their implementing measures and technical standards?

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

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

Please explain your answers to question 42 (5000 character(s) maximum):

Q43: Do you believe that below specified MiCA level 2 acts lay down proportionate and simple-to-apply rules for ART and EMT issuers, taking into account their different size, scope of activity and risk profile?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know / No opinion / Not applicable
RTS on complaint handling by issuers of ARTs (Article 31(5))	☐	☐	☐	☐	☐	☐
RTS on the minimum content of governance remuneration (Article 45(7)(a))	☐	☐	☐	☐	☐	☐
RTS on the information to be submitted in an application for authorisation to	☐	☐	☐	☐	☐	☐

issue ARTs (Article 18(6))						
COM Delegated Act on ART/EMT significance criteria (Article 43(11))	☐	☐	☐	☐	☐	☐
RTS on own funds for issuers of ARTs and EMTs (Article 35(6))	☐	☐	☐	☐	☐	☐

Please motivate your answers to question 43 and briefly explain what the problems are for your highest-rated issue(s) and suggest how they should be addressed (e.g. legislative clarification, supervisory guidance, industry standards) (5000 character(s) maximum):

Q44: Do issuers identify any need to further standardise reporting requirements for issuers/information flow between CASPs and issuers for the purposes of MiCA?

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

Please explain your answer to question 44 (5000 character(s) maximum):

Stablecoin issuers currently require custodians to report information about their stablecoin holdings back to the issuer in a manner that is unique across the financial markets. This practice effectively duplicates existing regulatory reporting obligations and imposes an undue administrative burden on custodians without a commensurate benefit to market oversight.

The MiCA Review should assess whether such issuer-driven reporting requirements are proportionate and, where they overlap with supervisory reporting channels, eliminate redundancies in favor of a streamlined and efficient reporting framework.

At the same time, standardised look-through reporting should be introduced for reserve assets, enabling supervisors and market participants to verify directly that digital money remains fully backed by eligible assets at all times. This would reduce reliance on issuer attestations, which are point-in-time and subject to the issuer's own methodological choices, in favour of a structurally transparent reporting architecture built on data sourced from the regulated infrastructure holding the reserves.

Additionally, standardised interfaces and data formats between issuers and CASPs would simplify reporting, reduce operational burden and support consistent supervision. Where possible, the EU should develop common APIs or reporting standards and avoid duplicative issuer-driven reporting that overlaps with supervisory reporting channels. This is particularly important as the number of stablecoin issuers and custodians grows.

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

3.1. Crypto-asset services

Q45: Is the list of crypto-asset services as defined in Article 3(16) of MiCA adequate to effectively cover crypto-asset markets and provide sufficient legal clarity for businesses?

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

Please explain your answer to question 45 (5000 character(s) maximum):

The MiCA Review must ensure that all service providers offering functions equivalent to those of a MiCA-regulated trading platform (or other services) are subject to the same regulatory requirements. At present, a significant competitive imbalance exists in the market. For example, Order and Execution Management System (OEMS) providers offer services that are functionally comparable to those of a regulated crypto-asset trading platform, including order routing, execution facilitation, and market access, yet operate without obtaining a Crypto-Asset Service Provider (CASP) license.

This regulatory asymmetry not only distorts competition but also creates gaps in investor protection and market oversight, as these providers are not held to the same standards of conduct, transparency, and operational resilience. The principle of "same activity, same risk, same regulation" must be applied consistently. The MiCA Review presents an opportunity to close this loophole by extending licensing and conduct requirements to all entities that perform trading platform-equivalent functions, regardless of how they classify or market their services.

Recognising the role of CSDs in the tokenised ecosystem

At the same time, the current framework does not sufficiently reflect the role that established financial market infrastructures, such as Central Securities Depositories (CSDs), can play in the tokenised ecosystem. CSDs combine deep expertise in the safekeeping, settlement, and administration of financial instruments with highly resilient operational frameworks built over decades of regulatory scrutiny. As tokenisation reshapes the issuance and lifecycle management of financial assets, CSDs are natural candidates to extend their proven capabilities into the digital asset space, bridging traditional and tokenised markets in a manner that preserves the integrity and trust on which the financial system depends.

However, the current scope of services that CSDs are permitted to offer under MiCA does not adequately reflect this integral role. The list of eligible activities (art. 60) remains unduly narrow and fails to capture the full spectrum of MiCA functions that CSDs could perform in the tokenised value chain. This limitation not only constrains the ability of CSDs to contribute their innovative drive to the development of digital asset markets but also deprives the broader market of the operational resilience, neutrality, and regulatory alignment that CSDs bring to every activity they undertake.

Q46: If additional services should be added, what should those be and what requirements should be applied to these services and service providers?

If you believe that certain services should be removed, please specify which ones and why (5000 character(s) maximum):

CSDs combine deep expertise in the safekeeping, settlement, and administration of financial instruments with highly resilient operational frameworks built over decades of regulatory scrutiny. As tokenisation reshapes the issuance and lifecycle management of financial assets, CSDs are natural candidates to extend their proven capabilities into the digital asset space, bridging traditional and tokenised markets in a manner that preserves the integrity and trust on which the financial system depends.

However, the current scope of services that CSDs are permitted to offer under MiCA does not adequately reflect this integral role. The list of eligible activities (art. 60) remains unduly narrow and fails to capture the full spectrum of MiCA functions that CSDs could perform in the tokenised value chain. This limitation not only constrains the ability of CSDs to contribute their innovative drive to the development of digital asset markets but also deprives the broader market of the operational resilience, neutrality, and regulatory alignment that CSDs bring to every activity they undertake.

The MiCA Review should therefore expand the catalogue of services available to CSDs to encompass the full range of tokenisation-related functions, enabling these institutions to serve as trusted pillars of an evolving digital market infrastructure and ensuring that Europe capitalises on the innovation potential of its most established post-trade actors.

Q47: Would the introduction of appropriateness test for the crypto-asset services of reception and transmission, execution and placing of crypto-assets increase the protection for CASP clients, especially retail clients?

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

Please explain your answer to question 47 (5000 character(s) maximum):

Q48: The provision in the EU of crypto asset services covered by MiCA requires that the service provider is authorised under MiCA and complies with its requirements.

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

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

If no, please explain your answer to question 48, specifying what in your view could be a relevant alternative (5000 character(s) maximum):

Referring to our answer above, we recommend any service provider, European or non-European, who offers services defined under MiCA to be required to obtain a MiCA license. This will enforce the stability of the ecosystem, increase the confidence of participants, and ensure a level field for all providers.

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.

Q49: Is the prudential regime for crypto-asset service providers appropriate to capture the risks associated with the provision of crypto-asset services, or would it be warranted to adjust the prudential stance, e.g. by aligning it with the requirements for own funds

applicable to investment firms (including K-factors) that provide services that are broadly similar?

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

Please explain your answer to question 49 (5000 character(s) maximum):

The current prudential framework for crypto-asset exposures prescribed by the Basel Committee on Banking Supervision and transposed into EU law, applies punitive capital charges that fail to differentiate between cleared and uncleared exposures in a meaningful way. This approach disregards the fundamental risk-mitigating function of central clearing, the very mechanism that regulators have consistently promoted across all other asset classes since the 2007/08 financial crisis.

Where crypto-assets, including crypto-asset derivatives, are centrally cleared through a qualifying CCP that is subject to robust margining, default management, and supervisory oversight, the residual risk borne by clearing members is materially lower than that of bilateral or uncleared positions. This reduction in counterparty credit risk and systemic contagion should be reflected in the capital treatment.

Centrally cleared crypto-asset exposures ought to benefit from preferential risk weights, in the range of 0%, 2%, or 4%, consistent with the treatment applied to other centrally cleared instruments, rather than being subjected to the blanket punitive charges currently in force. Maintaining disproportionate capital requirements for cleared crypto-assets actively discourages the migration of these markets toward central clearing, thereby perpetuating the very systemic risks that prudential regulation seeks to mitigate.

We encourage the Commission to recalibrate the transposition of Basel framework and explore the scope for a proportionate European implementation that recognises the risk-reducing effect of central clearing in digital asset markets.

Q50: Is the amount of minimum capital provided for each class of CASP listed in Annex IV of MiCA adequate or should it be recalibrated?

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

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

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

1 (EUR 50.000)						
Minimum initial capital for Class 2 (EUR 125.000)	☐	☐	☐	☐	☐	☐
Minimum initial capital for Class 3 (EUR 150.000)	☐	☐	☐	☐	☐	☐

Please explain your answers to question 50, indicating, if necessary, how the amount of minimum capital should it be recalibrated (5000 character(s) maximum):

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.

Q51: Should the current approach be maintained or should there be enhanced oversight and coordination in relation to entities that in addition to providing crypto-asset services, offer (1) other unregulated services or (2) other types of regulated services, (3) a combination of crypto-asset services? What kind of action would be appropriate?

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

Please explain your answer to question 51 (5000 character(s) maximum):

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.

Q52: Should CASPs report regularly their activities?

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

the extent to which leverage is actually used on trading platforms			
Information on counterparty risk	☐	☒	☐

If no, please explain your answer to question 52:

3.5. Environmental and sustainability reporting

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

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

Q53: Based on your experience to date, how do you assess the current environmental/sustainability disclosure regime under MiCA (including the relevant Level 2 RTS)?

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

Please explain your answer to question 53 (5000 character(s) maximum):

3.6. Other issues

Q54: Given that crypto-asset service providers are entities subject to the regulatory framework of the Digital Operational Resilience Act (DORA), are there any additional issues/challenges that need to be addressed in relation to cybersecurity?

(5000 character(s) maximum):

Clarity on the treatment of crypto-asset sub-custody:

The current divergence in the supervisory treatment of crypto-asset sub-custody arrangements across Member States constitutes a material barrier to broader market adoption. Certain National Competent Authorities (NCAs) classify sub-custody of crypto-assets as outsourcing, thereby subjecting it to the full suite of outsourcing requirements, including due diligence, contractual stipulations, and ongoing monitoring obligations designed for fundamentally different operational arrangements. This classification is, in our view, misplaced. Sub-custody is an established and well-understood practice in traditional financial markets, where it is recognised as a distinct activity within the custody chain rather than a delegation of operational functions to a third party. MiCA itself appears to acknowledge this distinction in the second subparagraph of Article 75(9),

which contemplates sub-custody arrangements as a feature of the custody chain rather than outsourcing.

Applying outsourcing frameworks to sub-custody conflates two conceptually and functionally separate arrangements, imposing requirements that are neither appropriate nor proportionate to the risks involved. The resulting legal fragmentation across jurisdictions creates uncertainty for custodians and sub-custodians alike, discouraging the development of efficient, cross-border custody networks for crypto-assets and ultimately hampering the competitiveness of the European digital asset market.

We would welcome explicit clarification from the Commission in the context of the MiCA Review that sub-custody of crypto-assets does not constitute outsourcing within the meaning of the applicable regulatory framework, thereby establishing a uniform and legally sound basis for supervisory practice across all Member States.

Q55: The Payment Services Directive has been substantially reviewed recently, bringing notably more clarity on the interplay between the MiCA rules applying to the transfer services in relation to e-money tokens and the rules under the payment services framework which apply to the provision of payment services. As a result, the PSD3/R will clarify which crypto-asset services may qualify as payment services, including targeted exclusions from the scope of PSD3/R for specific types of transactions/exchanges involving EMTs, and will specify the authorisation process under PSD3 in cases where CASPs are required to obtain a PSD3 authorisation.

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

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

Please explain your answer to question 55 (5000 character(s) maximum):

The MiCA Review should address the question of settlement finality for transactions involving crypto-assets and stablecoins with due regard to the existing frameworks under the Settlement Finality Directive (SFD) and the forthcoming PSD3.

Without clear rules on when a transfer of crypto-assets or stablecoins becomes irrevocable and enforceable, legal uncertainty persists, particularly in scenarios of insolvency or operational disruption. A coherent alignment between MiCA, the SFD, and PSD3 is essential to ensure that finality standards in the digital asset space are no less robust than those governing traditional payment and securities settlement systems.

Q56: Do MiCA provisions governing crypto asset service providers sufficiently allow, or unduly restrict, access for EU consumers and investors to non-EU and global crypto asset trading and liquidity pools?

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

Question 56.1 What are the advantages and disadvantages of focusing on EU liquidity or full access to global liquidity? (5000 character(s) maximum)

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Q57: Do you believe that the below specified groups of MiCA level 1 provisions lay down proportionate and simple-to-apply rules for CASPs, taking into account their different size, scope of activity and risk profile?

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

Please explain your ratings in question 57 and suggest how rules could be made simpler and more proportionate (e.g. legislative clarification, supervisory guidance, industry standards) (5000 character(s) maximum):

--

Q58: Do you believe that below specified MiCA level 2 acts lay down proportionate and simple-to-apply rules for CASPs, taking into account their different size, scope of activity and risk profile?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know / No opinion / Not applicable
RTS on complaint handling for CASPs (Article	☐	☐	☐	☐	☒	☐

71(5))						
RTS on offering pre-trading and post-trading data to the public (Article 76(16)(a))	☐	☐	☐	☐	☒	☐
RTS on content and format of order book and records to be maintained (Article 76(16)(b))	☐	☐	☐	☐	☒	☐
RTS on records to be kept of all crypto-asset services, activities, orders and transactions undertaken (Article 68 (10)(b))	☐	☐	☐	☐	☒	☐
RTS on the continuity and regularity in performance of crypto services (Article 68 (10)(a))	☐	☐	☐	☐	☒	☐

Please explain your ratings in question 58 and suggest how rules could be made simpler and more proportionate (5000 character(s) maximum):

4. PART 4. Policy areas beyond the current scope of MiCA

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

4.1. Decentralised finance

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

MiCA excludes from its scope ‘crypto-asset services that are provided in a fully decentralised manner without any intermediary (MiCA Recital 22: “Where crypto-asset services are

provided in a fully decentralised manner without any intermediary, they should not fall within the scope of this Regulation”).

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

Q59: In case you are aware or make use of DeFi currently beyond the regulatory perimeter of MiCA, what are the main services you (would) use and for which of them do you consider they bring benefits compared to similar intermediated digital assets services?

a) Exchange services

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

b) Payments and transactions services

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

c) Trading and investment services

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

d) Lending and borrowing services

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

e) Custody services

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

Please detail the benefits or weaknesses you associate with the use of DeFi applications for these different services in question 59, and the actions you would consider appropriate to optimise these benefits or address the possible issues they raise (5000 character(s) maximum):

DeFi remains an emerging and highly complex ecosystem. As DeFi continues to evolve, it is important to develop an appropriate regulatory framework that preserves innovation while ensuring adequate investor protection, accountability, and market integrity. Such a framework should address the unique risks associated with decentralised systems without undermining their potential benefits.

FESE believes Ce-Fi institutions should be allowed to enable easy, reliable, and efficient access (on and off ramping) to De-Fi applications. They would act as trustworthy intermediaries and build a regulated bridge between Ce-Fi and De-Fi. It is important not to “overburden” the requirements for regulated players to enter and test the new space by trying to adapt to the same safeguards known from traditional asset classes. Additionally, since Ce-Fi institutions are able to comply with regulatory standards by fulfilling AML criteria, CFT, and KYC, and ensuring investor protection, they can provide users with security and reliability in using De-Fi applications.

FESE also underlines the need to maintain a level playing field between decentralised and regulated financial services. Where DeFi protocols provide services that are functionally equivalent to regulated activities, such as trading or execution, an absence of equivalent regulatory requirements risks creating asymmetric treatment across the market. Applying the principle of “same activity, same risk, same regulation” remains essential to prevent regulatory arbitrage and to ensure fair competition and robust investor protection.

On the other hand, we are of the opinion that DeFi applications, particularly those governed through DAOs, may pose heightened risks where governance is concentrated, opaque, or responsibility cannot be clearly attributed. This is particularly relevant from an investor protection perspective, as effective protection and redress mechanisms

require an identifiable entity that can be held accountable and liable. Likewise, competent authorities need a clearly accountable counterparty to supervise compliance and enforce applicable rules in order to preserve market integrity.

While we support peer-to-peer networks and decentralised technologies, we consider the existence of a regulated and accountable operator acting under a transparent rulebook to be a key safeguard.

Q60: What do you consider to be the main risks associated with DeFi?

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

Please explain your answers to question 60 (5000 character(s) maximum):

DeFi raises important questions around legal accountability, liability, and regulatory oversight. Its decentralised and cross-border nature can make it difficult to determine which jurisdiction applies, identify responsible parties in cases of fraud or misconduct, and ensure effective legal recourse.

To address these concerns, market participants are exploring "permissioned" DeFi models, where access is restricted to identified users while retaining many of the benefits of decentralised infrastructure. For capital markets applications, smart contracts should also include safeguards such as the ability to pause operations when necessary and clearly identified owners or operators responsible for their governance and management.

FESE believes that the role of Ce-Fi institutions in the assistance and supervision of the De-Fi systems needs to be realised and enhanced. Regulations like MiCA are needed to establish trusted market players and safeguard the market. Here, it would be helpful to develop common standards for how established regulated players may enter into the public De-Fi space to benefit from technological innovations.

Q61: In case you consider the criteria for establishing whether a DeFi application is not fully decentralised not sufficiently clear, which of them should do you consider should be used to assess the degree of decentralisation?

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

Please specify to what other criteria(s) you refer in your answer to question 61 (5000 character(s) maximum):

Please explain your answers to question 61 (5000 character(s) maximum):

FESE believes Ce-Fi institutions should be allowed to enable easy, reliable, and efficient access (on and off ramping) to De-Fi applications. They would act as trustworthy intermediaries and build a regulated bridge between Ce-Fi and De-Fi. It is important not to “overburden” the requirements for regulated players to enter and test the new space by trying to adapt to the same safeguards known from traditional asset classes.

Meanwhile, one could try to facilitate the interactions between regulated players and DEXs. One way to do this could be to allow regulated Financial Market Infrastructures (FMIs – such as regulated markets, multilateral trading facilities, CCPs, CSDs) to interact with DEXs, after validating the “minimum” technical standards of a smart contract in question and involving independent technical auditors. Additionally, since Ce-Fi institutions are able to comply with regulatory standards by fulfilling AML criteria, CFT, and KYC, and ensuring investor protection, they can provide users with security and reliability in using De-Fi applications.

Q62: Do you believe that risks to users of fully decentralised DeFi protocols should be indirectly accounted for by MiCA, e.g. by requiring CASPs to conduct due diligence over DeFi protocols they connect their clients with, or in any other way?

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

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

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

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don’t know / No opinion / Not applicable
CASPs should be able to connect their clients to any decentralised DeFi application, subject to giving appropriate warnings and disclosures on	☐	☐	☐	☐	☒	☐

risks						
CASPs should be liable for certain types of incidents when they have provided access to the relevant DeFi application and clients have been affected	☐	☐	☐	☐	☒	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service global (permissionless) liquidity	☐	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service only verified liquidity (verified pools)	☐	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that service global liquidity	☐	☐	☐	☐	☐	☐
CASPs should be required to discontinue or discourage connecting clients to DeFi protocols that are strongly associated with illicit activity based on blockchain analytics	☐	☐	☐	☐	☐	☐

CASPs should not facilitate connection to decentralised DeFi applications	☐	☐	☐	☐	☒	☐
Public bodies should be required, or private organisations incentivised to publish whitelists or blacklists of DeFi protocols based on their risk profile	☐	☐	☐	☒	☐	☐
Other	☐	☐	☐	☐	☐	☐

Please specify to what other solution(s) you refer in your answer to question 62.1 (5000 character(s) maximum):

Please explain your answers to question 62.1, including your reasoning and any suggestions for improvement, recalibration, or alternative approaches (5000 character(s) maximum):

Overall, in our view, CASPs, as regulated MiCA entities, should not facilitate connection to fully decentralised DeFi applications. However, should they do so, they should only be able to offer such connections under strict requirements. For example, being subject to giving appropriate warnings and disclosures on risks, etc.

Q63: Do you support introducing certification schemes for DeFi protocols and smart contracts?

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

If yes, please explain your answer to question 63, and explain for which types of DeFi services you support introducing certification schemes and for what reasons (5000 character(s) maximum):

We believe that legal identifiers for crypto-assets and smart contracts can significantly enhance legal certainty, transparency, and market integrity. This would support greater interoperability and fungibility of crypto-assets while strengthening investor protection.

To achieve these objectives, consideration should be given to establishing a recognised certification framework for token and smart contract standards, accompanied by mechanisms that allow market participants to verify certification status in a simple, reliable, and harmonised manner.

Similar to the role of a TÜV certification mark in Germany, which provides a readily verifiable indication that predefined standards have been assessed and met, such a framework could give users confidence regarding the authenticity, compliance, and reliability of crypto-assets and their underlying smart contracts.

Q64: Which of the following statements about potential certification schemes of DeFi protocols do you agree with?

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

required to obtain a certificate before making these wallets available to the public						
DeFi protocols and software developers offering the possibility to create and use non-custodial wallets should be incentivised to obtain a certificate	☐	☐	☐	☒	☐	☐

Please explain your answers to question 64 (5000 character(s) maximum):

Q65: Which of the following statements about potential certification schemes of DeFi protocols or smart contracts do you agree with?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know / No opinion / Not applicable
Certificates should be issued by qualified private sector entities	☐	☐	☐	☐	☒	☐
Certificates should be issued by qualified public sector entities	☒	☐	☐	☐	☐	☐
Any interested party (e.g. persons providing connectivity to or participating in governance of DeFi protocols) should have the possibility to ask for the	☐	☐	☐	☒	☐	☐

certification of a fully decentralised DeFi protocol						
Only fully decentralised DeFi protocols that reach a certain significance (e.g. based on total value locked) should be required to obtain a certificate	☒	☐	☐	☐	☐	☐
CASPs should not be allowed to connect clients with DeFi protocols that are not certified	☐	☐	☐	☐	☐	☐

Please explain your answers to question 65 (5000 character(s) maximum):

4.2. Staking, lending and borrowing of crypto-assets

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

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

Q66: Do you think the current approach whereby staking services are not separately regulated is adequate?

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

If yes, please explain your answer to question 66 (5000 character(s) maximum):

The current approach, whereby staking services are not separately regulated, is broadly adequate. Staking primarily supports blockchain validation rather than involving credit intermediation, collateral swaps, or maturity transformation. The introduction of a dedicated regulatory regime would not be proportionate given the limited risk profile compared to traditional lending.

However, enhanced legal certainty could be achieved through targeted requirements applicable to staking service providers, particularly in relation to disclosure, safeguarding of client assets, operational resilience, validation governance, and conflict of interest management. Such measures would strengthen investor protection while preserving innovation and avoiding unnecessary regulatory fragmentation.

Q67: Do you think that lending and borrowing of crypto-assets should be regulated?

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

If yes, what do you believe should be the main elements of regulatory requirements applicable to lending and borrowing and why? (5000 character(s) maximum)

The regulatory framework for crypto-asset lending and borrowing should be grounded in MiCA in the principle of technology neutrality and substance over form. Markets would benefit from an approach that looks at the economic substance of a transaction rather than the form in which it is executed or the technology through which it is delivered.

Where crypto-asset lending and borrowing replicates the economic characteristics, risk profile, and market function of traditional securities lending, it should be subject to the same applicable standards, including requirements on transparency, collateralisation, counterparty risk management, and reporting. Applying a lower or separate standard solely because the transaction is executed on a distributed ledger or involves a tokenised asset would create opportunities for regulatory arbitrage and concentrate risk in less supervised parts of the market.

Financial instruments that fall within the scope of MiFID should continue to be governed by MiFID irrespective of the technology on which they are issued or traded, or the type of underlying. Any erosion of the boundary between MiFID and MiCA risks creating regulatory ambiguity that could undermine investor protection and market integrity.

4.3. Non-fundible tokens

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

Q68: In your view, does the current state of the NFT market and the risks and opportunities associated with it justify regulating providers of services related to these tokens?

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

If yes, what do you believe should be the main elements of regulatory requirements applicable to NFTs? (5000 character(s) maximum)

If no, please explain your answer to question 68 (5000 character(s) maximum):

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.

Q69: Do prediction markets present opportunities or risks for EU consumer and investors?

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

Please elaborate on your answer to question 69 (5000 character(s) maximum):

Q70: Should prediction markets, where they are DLT enabled and facilitated through smart contracts be governed by MiFID or MiCA?

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

Please explain your answer to question 70 (5000 character(s) maximum):

Consistent with the principle of technology neutrality and the economic-substance approach, a contract that is a derivative by virtue of its economic characteristics should be regulated under the existing derivatives framework (MiFID II/MiFIR, EMIR, and MAR), irrespective of whether the underlying is a crypto-asset or whether the contract is recorded or settled using DLT and smart contracts. Regulating crypto-asset derivatives under MiCA would create an inconsistent regulatory framework for economically equivalent products and encourage regulatory arbitrage. The use of tokenised collateral or DLT-based settlement does not change the classification of a derivative.

A perpetual future is in substance a derivative that provides exposure to changes in the price of an underlying asset without a fixed expiry date. As derivatives are financial instruments under MiFID, perpetual futures should fall within that framework too.

ESMA confirmed this in its March 2025 Guidelines on the qualification of crypto-assets,¹ stating that perpetual futures should be assessed against Annex I Section C, points (4) to (10) of MiFID II, notwithstanding the absence of an expiry or settlement date. ESMA reaffirmed this position in February 2026,² treating these products as contracts for differences (CFDs), which are MiFID financial instruments.

Addressing supervisory gaps

The issue is therefore not a regulatory gap but a supervisory one. DEXs, which fall outside MiCA's scope offer perpetual futures that qualify as MiFID financial instruments, without corresponding regulatory oversight. This leaves EU retail investors unprotected and allows unregulated price formation to feed into regulated commodity contracts, including energy derivatives as well as equity derivatives referencing European issuers.

This rises several concerns:

- **Market integrity:** DEX perpetual markets are not subject to the market surveillance and systems-and-controls requirements under MAR and MiFID, nor the admission requirements that apply to authorised exchanges. Unregulated price discovery risks distorting the information available to market participants, feeding into the price discovery process of regulated markets. MiFIR already recognises this in Article 42(2)(a)(ii) by allowing NCAs to act where a derivative has a detrimental effect on the price-formation mechanism in the underlying market.
- **Investor protection:** CFDs offered to retail clients fall under specific protections, including leverage limits, risk warnings, and negative balance protection under the national product intervention measures that mirror ESMA's 2018 CFD decision.³ ESMA confirmed in February 2026 that these apply to products marketed as perpetual futures. Yet DEXs offer leverage exceeding the limits established under the ESMA Decision without comparable safeguards.
- **Operational and financial resilience:** Unlike authorised exchanges, and CCPs, DEXs are not subject to DORA, MiFID II, and EMIR requirements related to operational resilience, capital, margin, default-management and stress-testing.
- **Anti-money laundering/sanctions enforcement:** Unlike authorised trading venues, DEXs generally operate without identity verification at any level of the transaction chain, thus enabling money laundering and sanctions circumvention.
- **Regulatory coherence:** For the subset of perpetual futures referencing European gas or electricity, REMIT applies regardless of where the contract is traded.⁴ In practice, the absence of any identity verification on unregulated DEXs leaves no mechanism through which REMIT registration and reporting could occur.

Given the classification of perpetuals as financial instruments, two situations should be addressed:

¹ ESMA, Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments ([here](#)), 19 March 2025.

² ESMA, Public statement on identifying derivatives within the scope of the national product intervention measures on CFDs ([here](#)), 24 February 2026.

³ ESMA Decision (EU) 2018/796 of 22 May 2018 to temporarily restrict contracts for differences in the Union in accordance with Article 40 of Regulation (EU) No 600/2014, OJ L 136, 1.6.2018, p. 50. The temporary ESMA measures lapsed in 2019 and were replaced by permanent national product intervention measures adopted by NCAs, mostly mirroring the ESMA decision.

⁴ REMIT Article 2(4) defines 'wholesale energy products' as derivatives relating to electricity, hydrogen or natural gas produced, traded or delivered in the EU, regardless of where the derivative itself is traded.

- **Within the EU perimeter:** a MiCA authorisation does not cover financial instruments. Where a venue offers perpetuals to EU clients under a MiCA authorisation alone, it is conducting MiFID activity without MiFID authorisation, which NCAs could address under existing powers.
- **Outside the EU perimeter:** where non-EU venues provide financial instruments to clients without an authorised access route or effective home-country supervision, existing MiFID and MiFIR rules should apply, including through measures targeting the marketing, distribution and access to such products.

The Commission could therefore confirm that existing MiFID and MiFIR requirements apply in these two situations and encourage ESMA to promote a consistent supervisory approach across national competent authorities. Existing product intervention powers under MiFIR Articles 40, 42, 43 already provide a framework for coordinated action.

Should policymakers consider bringing such instruments within the MiCA scope, this would need to be accompanied by a corresponding recalibration of the existing MiFID framework. Any regulatory alleviations introduced for tokenised instruments would need to be extended to their non-tokenised equivalents.

Q71: What substantive requirements should be considered for service providers that provide prediction market services? (5000 character(s) maximum):

Q72: Should perpetual futures on crypto-assets and services towards such perpetual futures be governed by MiCA or MiFID.

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

Please explain your answer to question 72 (5000 character(s) maximum):

FESE considers that, where prediction markets or perpetual futures exhibit characteristics comparable to financial instruments, they should fall within the scope of MiFID II rather than MiCA, in line with the principle of technology neutrality. The regulatory treatment of an instrument should be determined by its economic function and risk profile, rather than the technology used for its issuance or trading.

Where such instruments are tokenised representations of financial instruments or derivatives, they should therefore be subject to the existing MiFID/MiFIR framework, including the applicable requirements on market integrity, transparency and investor protection.

Should policymakers consider bringing such instruments within the scope of MiCA, this would need to be accompanied by a corresponding and consistent recalibration of the existing MiFID framework. In particular, any regulatory alleviations introduced for tokenised instruments would need to be extended to their non-tokenised equivalents to avoid creating regulatory asymmetries between instruments that are equivalent in substance.

Maintaining different regulatory treatments for economically identical instruments would risk undermining the level playing field and creating incentives for regulatory arbitrage across technologies.

Q73: What substantive requirements should be considered for perpetual futures on crypto-assets and service providers providing service for such perpetual futures? (5000 character(s) maximum)

4.5. Tokenised deposits

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

Q74: Tokenised deposits could be deployed in support of a range of use cases across payments, capital markets, and on-chain financial activities.

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

	1 (not relevant / no meaningful benefit)	2 (low relevance / limited benefit)	3 (moderate relevance / moderate benefit)	4 (high relevance / high benefit)	5 (very high relevance / transfor- mative benefit)	Don't know /No opini on / Not appli cable
Person to person payments	☐	☐	☒	☐	☐	☐
Retail POI payments (domestic, day-to-day point of interaction transactions)	☐	☐	☒	☐	☐	☐
Intra-EU cross-border payments (non-POI)	☐	☐	☐	☒	☐	☐
International payments and remittances (third countries)	☐	☐	☐	☒	☐	☐
Settlement of tokenised securities and other financial instruments	☐	☐	☐	☒	☐	☐
Delivery-versus-p ayment (DvP) and	☐	☐	☐	☒	☐	☐

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

Please explain your answers to question 74 (5000 character(s) maximum):

In contrast to the traditional financial system, where both commercial bank money and central bank money coexist, we anticipate a similar need for the coexistence of different forms of on-chain money within the DLT ecosystem, such as MiCA-compliant stablecoins (EMTs), tokenised bank deposits, and a wholesale digital euro.

In this context, FESE welcomes the inclusion of EMTs in the DLTPR and CSDR, enabling the settlement of securities transactions in e-money tokens. We believe that it is necessary to expand the pool of eligible assets under CSDR and EMIR to include all MiCA-compliant stablecoins, including asset-referenced tokens, as well as tokenised commercial bank money, money market funds, and wholesale CBDC.

From a clearing perspective, tokenised deposits hold particular promise as eligible collateral and margining instruments. Clearing infrastructure requires collateral that is available precisely when and where it is needed, with high certainty of value and immediate accessibility in stress scenarios. When issued by creditworthy institutions and governed by robust standards, tokenised deposits can meet these requirements while also enabling automated collateral transfers, programmable margin calls, and real-time visibility over collateral positions. To unlock this potential, EMIR should explicitly recognise DLT-based collateral, including tokenised commercial bank money, as eligible

where it consistently meets the liquidity, credit risk, and market risk requirements already set out in the regulation.

Q75: Please select one or two use cases and benefits above that you consider most promising in the EU (*Maximum 2 selection(s)*):

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

Please explain why the case(s) you selected in your answer to question 75 are the most promising in the EU (*5000 character(s) maximum*):

Q76: What factors, if any, constrain the development and uptake of tokenised deposits in the EU? (*5000 character(s) maximum*)

In our view, the development and wider adoption of tokenised deposits in the EU is primarily constrained by legal uncertainty and limited interoperability across market participants.

Current initiatives are often being developed within proprietary or institution-specific ecosystems, with tokenised deposits governed by individual technical standards and contractual arrangements. While such approaches can support internal use cases, they may create legal challenges for cross-institutional and cross-border transactions, limiting scalability and network effects.

Greater interoperability between solutions offered by different institutions would therefore be an important enabler for broader market adoption. This could be supported through common standards, harmonised identification mechanisms, and shared validation frameworks that allow market participants to reliably identify and verify tokenised deposits across networks.

Addressing these issues would enhance legal certainty, reduce operational and contractual complexity, and support the development of a more integrated European market for tokenised deposits.

In addition, the absence of commonly recognised identification and verification mechanisms may create legal and operational uncertainties, particularly in inter-institutional use cases. The introduction of neutral and standardised identifiers for tokenised deposits could facilitate reliable verification of issuance and existence, thereby

strengthening trust and enabling interoperability across different platforms and institutions.

However, such a standardised identification and verification framework should not remain limited to tokenised deposits. It should be extended to other categories of tokens, including those representing securities, cash, and other financial assets. A common, technology-neutral identification layer across token types would lay the groundwork for a scalable Single European Token Area, analogous to the Single Euro Payments Area, enabling seamless cross-border issuance, transfer, and verification of tokenised assets within a unified European framework.

Q77: If you identify any regulatory issue(s) in your answer to the previous question, please indicate what regulatory action is appropriate to address the issue(s) identified (5000 character(s) maximum):

Considering recent EU and international developments, it is absolutely imperative that the EU takes swift action to avoid lagging in innovation and losing its competitive edge internationally. In alignment with the statement above, there is a pressing need to extend the technology-neutral definitions in EMIR to Article 46 as well. In particular, the fact that EMIR should be modernised to allow CCPs to accept DLT-based collateral, as this would not only allow them to manage liquidity more efficiently, but also provide them with a form of collateral which is available precisely when and where it is needed.

This regulatory leap is not only crucial and commendable but also constitutes the perfect opportunity to update EMIR holistically, by including the financial instruments defined in Article 3(1), point (2) of the MiCA regulation and tokenised commercial bank money as eligible collateral.

To effectively allow CCPs to keep pace with current technological advancements, new forms of digital financial instruments should also be considered eligible forms of collateral, particularly when they consistently meet the liquidity, credit risk and market risk requirements set out in EMIR.

From a settlement perspective, tokenised deposits should be treated equivalently to commercial bank money where they meet the same credit quality and liquidity standards as the underlying deposit they represent. There is no risk-based justification for excluding them from the settlement framework. CSDR should be updated to explicitly recognise tokenised deposits as an eligible form of cash settlement, enabling infrastructure operators to offer on-chain delivery-versus-payment using tokenised commercial bank money on equal regulatory footing with traditional cash settlement mechanisms.

Q78: Do tokenised deposits raise any specific issues under the CRD/CRR framework?

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

If yes, please indicate what issues arise and what regulatory or supervisory action may be appropriate to address the issue(s) identified (5000 character(s) maximum):

If no, please explain your answer to question 78 (5000 character(s) maximum):

Q79: Do tokenised deposits raise any questions and challenges from a deposit insurance perspective?

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

If yes, please indicate which supervisory or regulatory action is appropriate to address the issues identified (5000 character(s) maximum):

If no, please explain your answer to question 79 (5000 character(s) maximum):

4.6. Legal treatment of tokens

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

There are different ways to categorise tokens depending on the type of rights they confer to the holder. There are two general types of tokens, native tokens and non-native tokens. Native tokens tend to represent an asset (such as a share or security) that **only exists on-chain** (i.e. without a physical or traditional paper-based equivalent). Non-native tokens tend to **represent an on chain right over an asset that is legally constituted and represented elsewhere (off chain)** allowing this right to be held and transacted on DLT. Regarding non-native tokens, legal uncertainties may arise because, depending on the legal framework and the way the token was created, the tokenisation often leads to the simultaneous existence of two assets: the token representing the asset and the asset that the token asset represents. 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.

Q80: Is there legal uncertainty as to the private law treatment of issuance, holding and transfers of tokens, under national law?

☒ Yes

☐ No

☐ Don't know / no opinion / not applicable

If yes, Question 80.1 Which of the following issues are most significant?

	1 (none or not significant)	2 (low)	3 (moderate)	4 (high)	5 (very high)	Don't know /No opini on / Not appli cable
Issuing a crypto-asset token in compliance with national law	☐	☐	☐	☐	☐	☐
Issuing a tokenised financial instrument in compliance with national law	☐	☐	☐	☐	☐	☐
Transferring ownership (acquisitions, dispositions, earmarking etc) over a token, including good faith acquisition / bona fide ownership	☐	☐	☐	☐	☒	☐
Recognising ownership in a token towards third-parties	☐	☐	☐	☐	☒	☐
Using tokens as collateral	☐	☐	☒	☐	☐	☐
Possibility to differentiate between native and non-native tokens in	☐	☐	☐	☐	☐	☐

national law						
Recognising tokens as objects of property	☐	☐	☐	☐	☐	☐
Rights of token holders in intermediated custody chains	☐	☐	☐	☐	☐	☐
Enforcement and exercise of rights arising from /over tokens or the underlying assets	☐	☐	☐	☐	☐	☐
Custody of tokens	☐	☐	☐	☐	☒	☐
Treatment of tokens in insolvency proceedings including intermediary risk	☐	☐	☐	☐	☐	☐
Others	☐	☐	☐	☐	☐	☐

Please specify to what other issue(s) you refer in your answer to question 80.1 (5000 character(s) maximum):

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Please explain your answers to question 80.1 and provide examples from national law. In particular specify if any of the answers is specifically referring to native or non-native tokens and specify if any of the answers would be different depending on if the token is recording a tokenised financial instrument or crypto-assets (5000 character(s) maximum):

Absence of statutory ownership rights for stablecoins and crypto-assets

A source of legal uncertainty in the crypto-asset market lies in the absence of a statutory property law framework governing the ownership and transfer of stablecoins and crypto-assets. Unlike traditional financial instruments, where ownership rights and their transfer are anchored in law, the holding and transfer of stablecoins rests entirely on contractual arrangements defined by the issuer.

These arrangements vary significantly from one issuer to another and may offer considerably weaker protection. For example, some terms of service do not transfer ownership of the stablecoin to the user but merely grant a license to use it.

As long as the legal nature of holding and transferring crypto-assets remains unresolved and dependent on the contractual discretion of individual issuers, market participants face an unpredictable legal environment that discourages institutional engagement and inhibits the broader adoption of digital assets in Europe. The MiCA Review should seek to reduce this uncertainty by establishing a clearer and more harmonised legal foundation for the ownership and transfer of crypto-assets across Member States.

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

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

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

Please specify to what other issue(s) you refer in your answer to question 80.2 (5000 character(s) maximum):

Please explain your answers to question 80.2 and provide examples from national law. In particular specify if any of the answers is specifically referring to native or non-native tokens and specify if any of the answers would be different depending on if the token is recording a tokenised financial instrument or crypto-assets (5000 character(s) maximum):

Q81: Would you recommend increasing the legal certainty in the treatment of tokens through EU law?

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

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

Most important element number 1 (5000 character(s) maximum):

The 28th Regime could also offer an important opportunity to address long standing fragmentation in EU securities law from a digital-finance perspective. Divergent national definitions and approaches to dematerialised and digital securities make cross border issuance significantly more complex, time consuming, and costly than issuing securities in physical form.

A dedicated 28th regime for digital issuance could be explored in future Commission initiatives. We would like to note that the long-term objective should be a standalone regime applicable across all digital issuance rather than being limited to a specific

legislative framework, such as MiCA. Such a framework would establish clear, harmonised issuance requirements for dematerialised debt securities in a cross border environment and be available to issuers across all Member States, regardless of the governing law of the securities or the issuer's seat. It could also provide a legal basis for dematerialised issuance in Member States where such frameworks do not exist yet.

However, the introduction of a 28th regime for the issuance of dematerialised debt securities should not proceed in isolation, as it would not address the underlying fragmentation in areas such as securities ownership and insolvency laws. EU policymakers should prioritise addressing these structural issues in parallel with the development of the 28th regime for digital issuance to ensure a coherent and harmonised framework.

Most important element number 2 (5000 character(s) maximum):

Most important element number 3 (5000 character(s) maximum):

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

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

tokens in Member States						
Introducing a conflict of law regime for tokens under EU law	☐	☐	☐	☐	☐	☐
Other model	☐	☐	☐	☐	☐	☐

Please specify to what other measure(s) you refer in your answer to question 81.2 (5000 character(s) maximum):

Please explain your answers to question 81.2 and provide examples, in particular from national law. Where you favour full or partial harmonisation or the introduction of a conflict of laws regime, please specify which legal instrument would be most appropriate for that purpose (a new Regulation or the use of existing regimes, such as MiFID or MiCA). Also consider if there are risks with establishing an ownership regime at EU level and how these risks could be mitigated (5000 character(s) maximum):

The 28th Regime could also offer an important opportunity to address long standing fragmentation in EU securities law from a digital-finance perspective. Divergent national definitions and approaches to dematerialised and digital securities make cross border issuance significantly more complex, time consuming, and costly than issuing securities in physical form.

A dedicated 28th regime for digital issuance could be explored in future Commission initiatives. We would like to note that the long-term objective should be a standalone regime applicable across all digital issuance rather than being limited to a specific legislative framework, such as MiCA. Such a framework would establish clear, harmonised issuance requirements for dematerialised debt securities in a cross border environment and be available to issuers across all Member States, regardless of the governing law of the securities or the issuer's seat. It could also provide a legal basis for dematerialised issuance in Member States where such frameworks do not exist yet.

However, the introduction of a 28th regime for the issuance of dematerialised debt securities should not proceed in isolation, as it would not address the underlying fragmentation in areas such as securities ownership and insolvency laws. EU policymakers should prioritise addressing these structural issues in parallel with the development of the 28th regime for digital issuance to ensure a coherent and harmonised framework.

Q82: There are different “ownership models” that could be used to increase legal certainty over tokens.

Please indicate maximum two models listed below that you think EU law could apply if it were to improve the legal certainty of tokens in the EU (Maximum 2 selections(s)):

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

substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.

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

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

([Inspired by Lichtenstein Law](#). Art 2 TVTG defines token as a piece of information on a TT System which can represent claims or rights of memberships against a person, rights to property, or other absolute or relative rights. Art 5 TVTG states that the TT Key holder has the power of disposal over the Token. It is further assumed that the person possessing the power of disposal over a Token also has the right to dispose of the Token. For every previous holder of the power of disposal, it is presumed that he was the person possessing the right of disposal at the time of this ownership).

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

Q83: Comparing national laws of Member States, what are the main differences in how national laws governs the issuance, holdings and transfers of tokens? Please explain your answer and provide examples (5000 character(s) maximum):

4.7. Questions on conflicts of law

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

Q84: Should EU law introduce a conflict of law rule for tokens?

☐ Yes

☐ No

☐ Don't know / no opinion / not applicable

If no, please explain your answer to question 84:

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If yes, Question 84.1 please explain why the current conflict of law rules applicable in EU are not enough or sufficiently clear in its application to tokens? *5000 character(s) maximum*

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

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

Connecting factors without a ranking will be considered not relevant (at most 5 answered row(s)):

	1	2	3	4	5
The law of the state specified in the token or in the principles (if any) expressly specified in the token	☐	☐	☐	☐	☐
The law of the state specified in the rules or in the principles of the system on which the token is recorded	☐	☐	☐	☐	☐
The law of the state in which the legal entity operating the DLT-based system on which tokens are recorded	☐	☐	☐	☐	☐
In relation to a token for which there is an issuer, the law of the state where the issuer is established	☐	☐	☐	☐	☐
In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates	☐	☐	☐	☐	☐
In relation to tokens for which there is a provider of the technologies creating or issuing the tokens, the law of the state under whose supervision such technology operates	☐	☐	☐	☐	☐
Where a token shall be registered, the law of the state under whose supervision the register is maintained	☐	☐	☐	☐	☐
The law of the state of the relevant operating authority/administrator (PROPA), meaning a state authority or a body (e.g., a foundation) that takes over the administration of the system onto which the token is registered	☐	☐	☐	☐	☐
The law of the state of the primary residence of the encryption private master keyholder	☐	☐	☐	☐	☐

(PREMA), meaning the seat of a body that holds a system-relevant master key, with the help of which coercive transactions can be carried out, for example, based on a court order					
Any other?	☐	☐	☐	☐	☐

Please specify to what other factor(s) you refer in your answer to question 84.2 (5000 character(s) maximum):

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

In answering this question, please consider if the suggested scope of the conflict of law rule in your view is the right one, and whether there are aspects missing (5000 character(s) maximum):

Q85: If there are any other issues relating to legal certainty which are not mentioned above, please describe them here (5000 character(s) maximum):

Settlement finality

The MiCA Review should address the question of settlement finality for transactions involving crypto-assets and stablecoins with due regard to the existing frameworks under the Settlement Finality Directive (SFD) and the forthcoming PSD3.

Without clear rules on when a transfer of crypto-assets or stablecoins becomes irrevocable and enforceable, legal uncertainty persists, particularly in scenarios of insolvency or operational disruption. A coherent alignment between MiCA, the SFD, and PSD3 is essential to ensure that finality standards in the digital asset space are no less robust than those governing traditional securities settlement systems.

This uncertainty is resolvable within the existing SFD framework without requiring a fundamental revision. The SFD defines a "system" in contractual, not technological, terms: a formal arrangement governed by common rules and standardised procedures for the execution of transfer orders between a defined set of participants. An infrastructure operator running both DLT and legacy settlement components under a single rulebook satisfies this definition. The finality moment, determined by receipt and validation of the transfer order, applies uniformly to that single system, irrespective of whether the securities being settled are tokenised or held in traditional dematerialised form.

This reading has direct implications for insolvency management. Because each transfer order is unambiguously "entered into the system" under a single rulebook, it is always possible to identify transfer orders that are not subject to claw-back within a single insolvency procedure. There is no structural basis for treating tokenised and non-tokenised securities differently in this respect.

FESE therefore recommends that the MiCA Review confirm that:

- An infrastructure operator running DLT and legacy components under a unified rulebook constitutes a single system under the SFD, provided transfer order rules are sufficiently common and standardised across the participant set.
- Finality protections attach at the point of receipt and validation of the transfer order and are not contingent on the technological layer through which execution occurs.

- Insolvency protections under the SFD apply on equal terms to tokenised and non-tokenised securities settled within such a system.

This clarification is equally relevant for clearing infrastructure operating across DLT and legacy environments under a single rulebook.

Governance of smart contracts

Stablecoins are by design underpinned by smart contracts, which define and execute the rules governing their issuance, transfer, and redemption. In many instances, these smart contracts grant issuers the ability to access or intervene in third-party wallets, particularly when operating in cooperation with wallet providers. Such capabilities raise significant concerns regarding asset safety, user autonomy, and the potential for unilateral interference. The MiCA Review should introduce governance requirements for smart contracts underpinning stablecoins.

4.8. Final open question

Q86: Interested parties that wish to bring other relevant issues, not raised in this consultation, to the Commission's attention, should feel free to communicate them here (5000 character(s) maximum):

In relation to Question 47: MiFIR/MiFID II objectives to strengthen transparency and empower investors through better information and protection remain central to the EU's broader ambitions under the Capital Markets Union (CMU), Savings and Investment Union (SIU) and the Retail Investment Strategy (RIS), which aim to deepen market integration and increase retail participation in safe, transparent and fair environments. Similarly, MiCAR's aim is to introduce greater transparency and protection in the crypto space. While the current framework is a step in the right direction when it comes to investor protection, we see possibility for improvement, especially for retail clients.

In the digital age, retail participation in crypto assets in the EU is estimated at 10 - 20%. In 2024, the crypto-asset valuations exceeded €3.3 trillion before falling by more than 20% in early 2025, highlighting the extreme volatility retail investors are exposed to. ESMA consistently classifies crypto markets as high risk, citing vulnerabilities arising from volatility, leveraged structures, misinformation, and weak market integrity safeguards.⁵ More recently, AMLA also acknowledged the high-risk nature of the crypto sector overall, pointing at limitations in the areas of transparency and supervision, amongst others.⁶ Therefore, we support the introduction of MiFID II-like appropriateness tests for crypto-assets services.

The current investor protection framework for crypto-assets, centered primarily on the white paper obligation, is no longer sufficient in light of the increasing normalisation of crypto-asset investing. As retail participation continues to grow, there is a clear need to strengthen safeguards to ensure that investors fully understand the risks involved.

Introducing appropriateness tests for crypto-assets would represent a logical and necessary measure. Similar assessments are already applied to all complex financial instruments as a tool to evaluate whether retail investors have the knowledge and experience required to make informed investment decisions. Extending this approach to crypto-assets would help address the current protection gap.

In practice, retail clients can often gain access to crypto trading, including highly volatile products, via comparatively simple digital onboarding processes, despite the risks related

⁵ EBA-ESMA Joint Report on recent developments in crypto-assets markets ([here](#)).

⁶ "AMLA expects high standards against financial crime in crypto sector" ([here](#)).

to volatility, complexity, and information asymmetry. Against this backdrop, the current framework might fail to provide a sufficiently consistent level of investor protection aligned with the associated risks. Stricter onboarding procedures, including appropriateness and suitability assessments, would reduce the risk that retail clients engage in investments they do not fully comprehend. On a broader scale, it will support market integrity and serve as an additional market abuse safeguard.

Moreover, the absence of comparable investor-protection requirements across different products can create regulatory inconsistencies. Investors may be incentivised to shift toward crypto-based products that offer fewer safeguards, not due to superior value, but because there are fewer onboarding frictions.

Establishing consistent onboarding and appropriateness standards across asset classes would eliminate this regulatory asymmetry. It would enable more transparent and meaningful comparisons between products with similar levels of risk and complexity, ultimately supporting more informed investment decisions and promoting fair competition. Retail investors should benefit from a coherent and proportionate level of protection that reflects the risk of the product.