

Consultation Response

Targeted Consultation on the review of the regulation on the markets in crypto-assets (MiCA)

September 2026

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the **European Commission's targeted consultation on the review of regulation on the markets in crypto-assets (MiCA)**. The Association for Financial Markets in Europe (AFME) is the voice of the leading banks in Europe's financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent over 150 leading global and European banks and other significant market players. Our members play a vital role in Europe's financial ecosystem, underwriting around 90% of European corporate and sovereign debt, and 85% of European listed equity capital issuances. Importantly, AFME members are market makers, providing liquidity, which is essential for ensuring financial markets can function efficiently. We also represent law firms and other associate members which advise market participants and support AFME's legal and regulatory initiatives.

AFME is registered on the EU Transparency Register, registration number 65110063986-76. We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

The response is supported by Clifford Chance.

Executive Summary

AFME is highly supportive of the EU's prioritisation of the use of DLT in wholesale capital markets and development of crypto-asset and stablecoin markets. To ensure that the EU can maintain a lead in innovation, competition, and growth of DLT-based markets, we believe that any future legislative review of MiCA should take into account the following key requirements:

- **Scope and definitions:** in line with the principles of technological neutrality, DLT-based financial instruments should continue to be subject to relevant sectoral legislation rather than MiCA. The distinction between financial instruments governed by the revised MiFID II and crypto-assets governed by MiCA is sufficiently clear, and any changes to regulatory perimeter would result in significant legal uncertainty and costs, as well as negative consequences on market functioning (including liquidity, hedging, and collateral eligibility), and undermine the growth of EU DLT-based capital markets.
- **Stablecoins:** in line with our vision for a multi-money universe reinforced by the complementary roles of DLT-based central bank and commercial bank money, we view that MiCA-regulated stablecoins offer significant benefits for international payments, settlement of DLT-based financial instruments, corporate treasury management, and crypto trading and liquidity provision. To encourage the further growth of e-money token (EMT) markets in line with approaches to stablecoin regulation set out by other jurisdictions, we particularly advocate for recalibrating the composition of reserve assets to allow for a broader range of high-quality liquid assets to be eligible as reserve assets, provided that redemption capacity and liquidity can be demonstrated. It is also imperative that the MiCA framework facilitates the custody of reserve assets with highly rated and well-capitalised banks, and we therefore advocate for removing the 1.5% concentration limit and rules on excessive exposure limit.
- **Global stablecoin arrangements:** to maximise EU stablecoin market access and global interoperability, the EU should ensure a global stablecoin model is operationalised under MiCA

in practice. The existing safeguards under MiCA sufficiently address and mitigate risks identified in relation to the multi-issuance of stablecoins. Furthermore, we also support recommendations from the European Systemic Risk Board (ESRB) to introduce a number of additional safeguards, including the establishment of a framework for the assessment of the equivalence of third-country regulatory and supervisory regimes. In addition, an equivalence regime for global stablecoins could provide significant benefits by reducing regulatory fragmentation, supporting cross-border interoperability and creating enforceable cooperation arrangements between jurisdictions.

- **Tokenised deposits:** tokenised deposits have significant potential to support programmable settlement and treasury and liquidity management activities, and are likely to become an important settlement asset in DLT-based capital markets. To enable innovation in tokenised deposits, it is critical that they continue to be treated as deposits (representing traditional bank liabilities) and regulated under the existing banking framework, rather than be brought within the scope of MiCA scope or subjected to EMT-style requirements. Preserving a clear regulatory boundary between tokenised deposits and MiCA-regulated stablecoins is important for legal certainty and avoiding unintended consequences.
- **Legal treatment of tokens:** to resolve the significant degree of legal uncertainty on the private law treatment of issuance, holding, and transfers of tokens that continues to act as a barrier to DLT's widespread adoption in many Member States, we support a combination of: greater (partial) harmonisation of private law treatment of tokens, a specific EU conflict-of-law rule covering proprietary aspects of tokens, and a functional pan-European regime via a directly applicable regulation for DLT-based assets covering the matters in scope of the Unidroit Principles.

PART 1: SCOPE AND DEFINITIONS, TITLE II CRYPTO-ASSETS

1.1 MiCA scope & crypto-asset classification

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

- ☒ Yes, they should remain under the main sectoral legislation
☐ No, all crypto-assets, or the services provided on such assets, should be covered by MiCA

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

- ☒ Yes, sufficiently clear
☐ No, clarification is needed

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

To preserve market functioning and promote the growth of distributed ledger technology (DLT) within capital markets, it is imperative that the use of DLT should not in itself trigger a change in the classification of an instrument. This means that DLT-based financial instruments that qualify as financial instruments under existing EU legislation should remain within the scope of the relevant sectoral framework, regardless of the technology used for their issuance, custody or transfer.

We consider that the current technology-neutral "duck test" approach is adaptable, taking into account future potential market developments, and remains fit for purpose. It also ensures risk-focused regulation and supervision, consistent investor protection and a level playing field.

We maintain the view that the distinction between financial instruments governed by the revised MiFID II and crypto-assets governed by MiCA is clear. While certain crypto-assets, including some hybrid and utility tokens, may in specific circumstances raise classification questions where their rights, economic features or governance arrangements resemble those of financial instruments, the existing legal framework and the European Supervisory Authorities' (ESAs) standardised classification test provide an adequate basis for case-by-case assessment. In our view, these situations do not justify changes to the current delineation between the revised MiFID II and MiCA, which would result in significant legal uncertainty, costs, and negative consequences on market functioning (including liquidity, hedging, and collateral eligibility). Any changes to the regulatory framework to promote the use of DLT in the issuance, transaction, and settlement of financial instruments should be made through the existing MiFID II / MiFIR, CSDR, and the associated DLT Pilot Regime framework, with the aim of enabling a market structure that is fully compatible with the use and benefits of DLT.

Finally, we strongly recommend that prior to considering any policy decision on possibly changing delineation, policymakers should conduct thorough impact assessments for all proposed changes to evaluate net benefits against costs.

Question 2. To what extent have ESMA's MiCA Article 2(5) guidelines and the joint ESA standardised classification test reduced uncertainty in practice? Which borderline cases remain difficult? Please explain your response and suggest any policy actions for clarification if needed.

In our view, ESMA's MiCA Article 2(5) guidelines and the joint ESA standardised classification test have materially reduced uncertainty in delineation in practice. While some complex structures may still require detailed legal analysis on a case-by-case basis (see answer 7), we do not consider that any significant classification uncertainty remains to warrant changes to MiCA Article 2(5). We support targeted clarifications through supervisory guidance and practice FAQs. In addition, strong cooperation between the ESAs and national competent authorities (NCAs) on classification has helped to foster consistency across Member States, and we believe this should continue going forward.

To promote single market integration, the EU should facilitate more consistent and harmonised supervision covering DLT and tokenisation topics beyond MiCA, including the DLT aspects of the Market Integration and Supervision Package, to exchange experience, identify harmonisation needs in an agile way, and accelerate implementation.

1.2. Transparency rules and ex post supervisory control regime

Question 3. Title II establishes disclosure, marketing, conduct and liability rules for public offers and admission to trading of crypto-assets other than ART and EMT. How appropriate or effective is the design of Title II in balancing investor protection, market integrity and innovation?

Provision	Adequacy	Direction of Change
Exemptions for offers to <150 persons per Member State, small offerings (<€1m over 12 months), and qualified investors (Article 4(2))	Moderately adequate	Should be somewhat weakened
White paper disclosure framework (Article 6): issuer information, crypto-asset characteristics, tokenomics, risks, use of proceeds	Moderately adequate	Should remain unchanged
Marketing requirements: identifiable, fair, clear, not misleading and consistent with the white paper (Article 7)	Moderately adequate	Should remain unchanged
Ex ante notification model without prior regulatory approval	Moderately adequate	Should remain unchanged

(Article 8)		
Obligation to modify/update the white paper for significant new factors, material mistakes or inaccuracies (Article 12)	Moderately adequate	Should remain unchanged
Retail investor right of withdrawal (14 days), excluding assets already admitted to trading or after subscription period ends (Article 13)	Neutral	Should be somewhat weakened
Conduct obligations: honesty, fairness and professionalism, clear communications, conflicts management, and effective systems and security arrangements (Article 14)	Moderately adequate	Should remain unchanged
Civil liability for inaccurate, misleading or incomplete white paper information (Article 15)	Moderately adequate	Should remain unchanged
Overall balance between investor protection, market integrity and innovation under Title II	Moderately adequate	Should remain unchanged

Please explain your ratings, focusing on the issues you deem most significant regarding overall balance between investor protection, market integrity and innovation.

Title II is broadly proportionate and, in several areas, less burdensome than equivalent MiFID II/MiFIR disclosure regimes applicable to traditional financial instruments. In particular, the current notification-based approach (without requiring prior approval) and the simplified white paper framework support innovation and market access. The main provision that could be considered more restrictive than comparable traditional financial markets regimes is the right of withdrawal for retail investors, which has no direct equivalent under MiFID or the Prospectus framework.

Consideration could also be given to reviewing certain sustainability disclosure requirements to ensure that they remain proportionate, operationally feasible and capable of providing meaningful information to users. In particular, sustainability disclosures should focus on consensus mechanisms where environmental impacts are material, rather than imposing broad requirements that may generate significant compliance costs without delivering effective investor protection or decision-useful information.

The MiCA exemptions for offers to less than 150 persons per Member State, small offerings (less than €1m over 12 months), and qualified investors (under Article 4(2)) should be reviewed because they are more restrictive than comparable exemptions in the Prospectus Regulation (Articles 1(4), 3(2) and 25). These thresholds should be recalibrated to align them with securities markets to preserve technological neutrality and a level playing field between crypto-asset and securities markets.

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

No.	Issue	Ranking: 1 = <i>Not serious concern at all</i> , 5 = <i>Extremely serious concern</i>
1	Inadequate or non-comparable disclosure clarity or complexity to retail investors in Title II white papers	2
2	Fraudulent or misleading crypto-asset offerings affecting EU Investors	4

3	Lack of clear and enforceable investor rights for crypto-asset holders	3
4	Insufficient issuer governance or accountability in crypto-asset projects e.g. monitoring of the use of funds by issuers after the offering period	3
5	Regulatory arbitrage, including activity shifting outside the EU	5
6	Promotions by social media, influencers, sponsorships	4
7	Post-issuance token value erosion or project failure affecting EU retail investors	2
8	Market manipulation practices (e.g. wash trading, price manipulation) in crypto-asset markets	3
9	Misaligned incentives between crypto-asset issuers and investors (e.g. insider allocations, weak lock-ups)	3
10	Difficulty in assessing issuer quality and project credibility for EU investors	3
11	Cross-border enforcement and supervisory coordination challenges within the EU	4
12	Cross-border enforcement and supervisory coordination challenges with third countries authorities outside of the EU	5

Please explain your ratings above, focusing on the issues you deem most significant and add any additional issues that you deem highly important.

The overall framework established by Title II of MiCA provides an appropriate level of investor protection and market integrity. Several of the concerns identified in this question relate to risks that are inherent to crypto-assets and investment activity more generally, rather than shortcomings of the regulatory framework itself. For example, project failure, token value volatility, or differences in business outcomes between projects cannot be fully eliminated through regulation and should not necessarily be interpreted as regulatory failures.

We do consider that there exist outstanding concerns under MiCA relating to potential regulatory arbitrage and cross-border supervisory and enforcement challenges. Regulatory arbitrage remains a relevant issue because crypto asset activities are inherently global, and market participants may choose to operate from jurisdictions with less stringent regulatory requirements. This can create competitive distortions and reduce the effectiveness of regulatory safeguards applied within the EU. We therefore recommend that policymakers consider enhanced mechanisms for third-country cooperation, recognition, and supervisory arrangements.

As a significant share of crypto-asset activity continues to involve entities, infrastructures and counterparties located outside the EU, strengthening international cooperation and supervisory coordination – especially given that more jurisdictions have implemented crypto-asset frameworks since MiCA was introduced - would therefore be more beneficial than introducing additional legislative requirements at this stage.

We also consider that, within the EU, differences in supervisory interpretation and application across Member States may create operational complexity and legal uncertainty despite the existence of a harmonised framework. Consistent supervisory practices and regulatory convergence across the EU are therefore essential to maximise the benefits of MiCA. We would also support clearer practical guidance on market abuse practices, supervisory expectations and examples for crypto-assets, stablecoins, and different models and services.

Fraudulent or misleading crypto-asset offerings, often promoted through social media, influencers, and sponsorships, can lead investors to make fake investments or transfer funds to fraudulent wallet

addresses. To mitigate this risk, it is essential to strengthen due diligence on issuers, monitor promotional activities, verify the legitimacy of recipient wallet addresses, implement fraud detection mechanisms, and enhance customer awareness of common scam indicators, fake investment schemes, and social engineering techniques. A clear liability framework should be adopted to prevent fraud and allocate liability to the actor whose prevention measures have failed.

Question 5. Should additional measures either at the issuance stage or during the marketing and distribution of crypto-assets, be considered? Based on your experience or expertise, please evaluate the potential effectiveness of the following additional measures in relation to Title II crypto-assets.

Potential Measure	Effectiveness
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	Moderately effective
Lock-up periods (e.g. 12 months) or vesting schedules for founder and early investor tokens	Moderately effective

Please explain your ratings above and what (other) regulatory or supervisory actions you would consider useful either at the issuance stage and during marketing or distribution.

While marketing restrictions can help target clearly misleading promotions, their effectiveness is more likely to depend on supervisory enforcement than on additional legislative measures. Without a common EU-wide classification framework, there is a risk of divergent interpretations across Member States and supervisory authorities as to what qualifies as 'high-risk or speculative', potentially leading to inconsistent outcomes and regulatory fragmentation.

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

No answer.

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

While the MiCA/MiFID delineation is generally clear, certain categories continue to raise practical classification challenges and may benefit from further targeted clarification through an update to the ESAs' guidelines and practical Q&As. In particular:

- Assets marketed as NFTs but issued in large series or collections, wrapped assets, governance tokens with economic features, and synthetic exposures remain areas where market practices continue to evolve rapidly. Uncertainty persists regarding the concepts of fungibility, uniqueness and "large series". Questions remain as to how a "large series" should be identified, whether NFTs with minor differences affecting value should nevertheless be considered non-fungible, and how highly interchangeable NFTs should be treated from a regulatory perspective.
- Delineation between asset-referenced tokens (ARTs) and money market funds (MMFs) could be clearer. Tokenised money market funds (tMMFs) should in principle fall outside MiCA, as fund units qualify as financial instruments, for example under the UCITS or AIF frameworks, and are therefore excluded under Article 2(4). However, the boundary is not clear-cut: tokenised stable net asset value MMFs may function economically like EMTs or ARTs; wrapper structures, such as SPVs issuing tokens backed by MMFs, could fall within MiCA's scope; and end-user perception may blur these distinctions. Misclassification risks duplicative regulation or creates opportunities for regulatory arbitrage. Clear guidance from the Commission and/or

ESMA, together with proportionate treatment of trading platforms, is needed to avoid dual licensing burdens.

- Hybrid tokens remain among the most complex categories. In these cases, the legal qualification often depends on the specific rights attached to the token and therefore requires a careful case-by-case assessment under the existing legal framework. As tokenisation continues to evolve, the characteristics and functionalities of these products are likely to become complex, reinforcing the need for consistent supervisory interpretation across the EU. We therefore consider that additional supervisory guidance, practical examples, Q&As and anonymised case studies may help to enhance legal certainty and supervisory convergence.
- Liquid staking tokens: it remains unclear whether these arrangements could qualify as units in collective investment undertakings. In decentralised staking protocols, the absence of an identifiable manager, collective management activity or investment strategy makes the application of traditional fund concepts particularly challenging.
- Tokenised derivatives: while the ESAs' Guidelines appropriately classify tokenised perpetual futures and similar products as financial instruments under MiFID II, a practical challenge remains regarding the effective enforcement of such classification vis-à-vis third-country platforms actively targeting EU investors without being authorised under MiFID II and without being subject to the corresponding investor protection framework.
- Wrapped or synthetic exposures, and representative or mirrored token structures.
- Tokens with governance or profit-right features.
- Stablecoins with contractual rights resembling financial claims.
- In addition, there may also be borderline use cases where a tokenised interest in an underlying asset does not necessarily result in a separate financial instrument, nor does the token represent a meaningful right, for instance where it is used merely for record-keeping purposes or as a means of giving instructions. Tokens in such borderline use cases may fall under neither MiCAR nor MiFID II regimes and it would be helpful for market participants to see the recognition of such possibility in the guidelines. This outcome would be consistent with approaches to tokenised entitlements in securities in other jurisdictions.

Greater certainty in these areas through supervisory guidance would support consistent treatment of these asset classes across the EU and reduce the risk of regulatory gaps arising from assets that fall outside the scope of existing frameworks without being subject to an equivalent regulatory regime. In addition, we would support supervisory tools like granting ESMA the authority to issue binding decisions on the regulatory treatment of tokens to ensure consistency.

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

☒ Yes

☐ No

Please explain

At this stage, we do not consider that additional regulatory requirements are necessary. Further supervisory guidance on the application of materiality thresholds could, however, promote greater consistency in practice.

PART 2: REQUIREMENTS APPLYING TO ASSET-REFERENCED TOKENS (ART) AND ELECTRONIC MONEY TOKENS (EMT) AND THEIR ISSUERS (MICA TITLES III AND IV)

2.1. The future role of stablecoins

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

Vision	Views
A mainstream digital means of payment for retail transactions within the EU	Neutral
A mainstream digital means of payment for wholesale transactions within the EU	Neutral
A complement to existing payment instruments, used mainly in specific use cases especially in international, cross-border payments	Strongly agree
A core infrastructure layer for the digital economy and tokenised financial markets especially for settlement	Neutral
A niche or transitional product, eventually displaced by other forms of digital money (e.g. CBDCs or commercial bank money innovations)	Rather agree
No clear long-term role can be identified at this stage	Neutral
Others	Not applicable

If your answer is "Others", please elaborate.

We generally support and envisage a multi-money world in the future, underpinned by the complementary roles of central bank money and commercial bank money solutions. In response to this particular question, we note that many of the listed visions require significant assumptions about the characteristics and regulatory features of stablecoins, as well as the development of other forms of money (e.g., settlement of DLT-based wholesale transactions using central bank money under Pontes, and tokenised deposits / deposit tokens). It is therefore difficult to provide general views on these visions. As an objective, we support a legal and regulatory framework that accommodates the development of different forms of money.

However, given existing investments in stablecoin development and increasing volumes of issuance and transactions, we do envisage stablecoins to become a lasting component of the European DLT-based ecosystem and an important building block for the development of DLT-based financial markets. Technological neutrality and the 'same activity, same risk, same regulation' principle should be preserved, and market participants should remain free to choose the settlement asset that best meets their operational, liquidity and commercial needs.

Question 10. The following question explores the current and potential benefits of stablecoins (both EMTs and ARTs) for different use cases. For each use case below, please indicate on a scale of 1 to 5 how beneficial stablecoins would be for EU users:

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

Use Case	Usefulness
International payments (non-EU cross-border remittances or transfers)	Beneficial
Intra-EU payments (domestic and EU cross-border payments)	Neutral
Crypto trading and liquidity provision	Very beneficial

Retail payments – person to person	N/A
Retail payments – person to business (POI payment to merchants including e-commerce)	Moderately beneficial
Retail payments – business to business	Moderately beneficial
Wholesale payments (between financial institutions)	Beneficial
Settlement of tokenised financial instruments (e.g., digital bonds, securities)	Very beneficial
Corporate treasury management	Very beneficial
Access to programmable or smart contract-based financial services (DeFi applications)	Beneficial
Provisions of financial services in underserved regions in the EU	Moderately beneficial
Others	N/A

Based on current experience, we see the greatest benefits of EMTs and ARTs being associated with the following use cases: international payments, settlement of tokenised financial instruments, corporate treasury management, and crypto trading and liquidity provision. In the future, we could also envisage benefits associated with access to DeFi applications and enabling agentic payments.

A key feature underpinning many of these benefits is programmability. By embedding predefined rules and automated execution mechanisms into transactions, stablecoins can support innovative financial services, including collateralised lending, smart contract-based financial services, decentralised finance applications and emerging machine-to-machine payment use cases.

We note, however, that ultimately each use case depends on the availability of central bank money and the capability of other forms of DLT-based commercial bank money solutions to fulfil institutional needs for legal and regulatory certainty, risk management, and transferability and fungibility.

2.2. Prudential regime and capital requirements

Question 11. To what extent do you think the calculation methods are relevant and appropriately calibrated?

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

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

We are supportive of robust and well-calibrated capital requirements for non-bank EMT and ART issuers. We support improvements to tailor the multi-criteria approach and the calibration of thresholds. For example, a more differentiated and risk-sensitive approach – taking into account issuer structure, scale and systemic relevance – could provide a more proportionate regulatory framework.

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

Reason	Rating of Factor
Market interests for ARTs	Rather not a factor
Licensing and regulatory requirements for ARTs	A major factor

The absence of authorised ARTs under MiCA is more likely attributable to the combination of regulatory complexity, implementation costs, business model considerations, and the availability of alternative token structures such as EMTs, rather than a simple lack of market interest. The level of demand for stable-value crypto-assets suggests that interest exists, but market participants may still be evaluating whether the benefits of issuing an ART under MiCA outweigh the associated regulatory and operational obligations.

We consider that the licensing and regulatory requirements for ARTs make them comparatively unattractive in comparison with the requirements under other regimes for stablecoins and other crypto-assets. For many potential issuers, the cost and complexity of compliance may currently outweigh the commercial benefits of entering the market.

In comparison with other crypto-assets, the MiCA framework for ARTs is significantly more demanding. Issuers must establish robust governance arrangements, maintain reserve assets, implement redemption mechanisms, meet prudential and own-funds requirements, and comply with extensive disclosure, reporting, and operational resilience obligations. In addition, the RTS and ITS have introduced detailed technical requirements that require substantial implementation effort and legal certainty that firms have to take into account.

International comparisons are also worth consideration. In contrast, the US GENIUS Act does not establish an ART-like regime. Its substantive framework focuses on payment stablecoins linked to monetary value (i.e. linked to a national currency or to deposits denominated in a national currency), while guidance for other stable-value instruments, such as commodity-referenced or crypto-referenced stablecoins, is provided through a lighter-touch Treasury study on non-payment stablecoins. As a result, for instruments that would qualify as ARTs under MiCA, the U.S. approach is currently less prescriptive and burdensome, reinforcing the view that MiCA's ART framework may be comparatively unattractive for issuers.

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

We generally consider that ARTs should primarily function as payment and settlement instruments rather than speculative investments. Payment-oriented positioning supports financial stability and regulatory clarity. This means that if ARTs become widely available in the EU, the most likely use case would be as an alternative means of exchange, settlement, and payment, supported by their stable-value design and MiCA's regulatory framework. However, while the framework is structured around the assumption that ARTs function principally as transactional and value-preserving instruments rather than investment vehicles designed to generate returns, there may be investment, diversification, and hedging uses associated with ARTs. As the value of an ART floats against any individual fiat currencies, it may have limitations as a stable unit of account for consumers and corporates.

2.3. Liquidity and reserve requirements

Question 14. MiCA requires issuers of ARTs to establish, maintain, and prudently manage a reserve of assets and appropriate liquidity arrangements to ensure orderly redemptions and mitigate financial stability, liquidity, and operational risks. Additional and enhanced requirements apply to ARTs classified as "significant" under Article 45. How do you think, if at all, each of the following elements of the MiCA liquidity and reserve regime for ARTs should be adjusted?

Requirement	Adjustment needed? (non-significant ARTs)	Adjustment needed? (significant ARTs)
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1))	3	3
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	3	3

Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	2	2
Auditing requirements (Article 36(9))	3	3
Custody requirements (Article 37)	3	3
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant ARTs (Article 45(3)–(4))	3	3

- Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1)): this is a core safeguard underpinning market confidence, redemption rights and consumer protection. Relaxing it could undermine trust, while tightening it further may create unnecessary barriers for issuers without materially improving protection.
- Liquidity composition and maturity structure of the reserve (Art. 36(4)): the current requirements appear appropriate to ensure reserves are held in highly liquid, low-risk assets. The framework appears broadly proportionate for non-significant ARTs, though supervisory flexibility may be preferable to further prescriptive rules.
- Minimum amount of deposits held (Art. 36(4)): some recalibration could be considered. The deposit thresholds may be relatively conservative and can create concentration, operational and commercial challenges. Allowing greater flexibility through other highly liquid, high-quality assets could preserve safety while improving reserve efficiency. It would also align with comparable rules in other jurisdictions, e.g. under US Genius Act.
- Auditing requirements (Art. 36(9)): independent audits are fundamental to market confidence and transparency. The current framework strikes a reasonable balance between oversight and operational burden.
- Custody requirements (Art. 37): segregation, safekeeping and protection of reserve assets are essential. Given the importance of safeguarding reserves against operational and insolvency risks, the current requirements appear appropriate
- Core reserve and liquidity requirements (Art. 45): should remain strong, but calibration should better reflect issuer size, reserve composition, and redemption behaviour.

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

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

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

Requirement element	Non-significant EMTs	Significant EMTs
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Art 36(1))	3	3
Legal and operational segregation of reserve assets from the issuer’s own estate and from other token reserves (Art 36(2)–(3))	3	3
Liquidity composition and maturity structure of the reserve (Art 36(4), RTS)	3	3
Minimum amount of deposits held (30% and 60%) (Art 36(4), RTS)	2	2
Auditing requirements (Art 36(9))	3	3
Custody requirements (Art 37)	3	3

Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant EMTs (Art 45(3)–(4))	3	3
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	1	1

We consider that the EMT framework is generally well-aligned with the objective of ensuring redemption at par value and maintaining confidence in stable-value instruments pegged to a fiat currency.¹

We do, however, view that adjustments might be required for recalibrating the currently highly prescriptive liquidity and concentration provisions. Greater risk-based flexibility may improve operational feasibility without materially reducing consumer protection or financial stability safeguards. EMTs require a large proportion of deposits to be held with commercial banks, and this introduces various limitations in relation to how the assets are held and associated prudential requirements. However, we would also encourage equal focus on the prudential treatment of reserve deposits held with commercial banks, rather than only on reserve composition requirements. As a key adjustment, we propose revisiting the composition of reserve asset requirements to create more flexibility, whilst maintaining the requirement to hold a significant proportion of reserve assets in commercial bank money. We view that the minimum amounts of deposits held (set at 30% and 60%) are relatively prescriptive and could potentially be replaced by a more risk-based approach allowing a broader range of highly liquid, low-risk assets, provided that redemption capacity and liquidity can be demonstrated. Consideration should also be given to allowing EMT issuers to hold a larger amount of reserves in high-quality liquid assets (HQLA), including short-dated sovereign securities, government money market funds, government-backed reverse repurchase agreements, and, where accessible, central bank deposits or reserves. We would also support introducing more flexibility in reserve maturity profiles. From a competitiveness perspective, we would encourage the EU to consider the approaches to reserves composition in other key jurisdictions which may provide more flexibility on reserve asset requirements.

It is imperative that the MiCA framework facilitates the custody of reserve assets with highly rated and capitalised banks, and therefore we advocate for removing the 1.5% concentration limit and rules on excessive exposure limit. The framework should also facilitate the holding of reserve assets by credit institutions to the greatest extent possible. In this context, we note that liquidity-related requirements surrounding the treatment of deposits and reserve assets stand in the way of banks acting as depositary banks, including the LCR outflow treatment for reserve deposits and a lack of clarity surrounding the liquidity treatment of reserve assets of banks' own-issued stablecoins. The MiCA Review may also wish to clarify: 1) the possibilities and limitations on the use of reserve assets, including the legal and operational boundaries within which the depositary bank may, where appropriate, utilise the funds or securities held in custody (e.g. for the purposes of managing their own liquidity or interbank treasury functions), 2) segregation and default requirements, and 3) allocation of responsibilities between the token issuer and custodian banks.

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

Please select one option.

- ☐ Yes – require reserve maintenance and segregation of EMT reserve assets within the credit institution's balance sheet
- ☐ Yes – require issuance through a legally separate entity of the credit institution with full segregation of EMT reserve assets
- ☒ No – keep the current MiCA approach unchanged
- ☐ Others / alternative approach

¹ Note to AFME: check font size used throughout for consistency.

We support keeping the current MiCA approach unchanged. If MiCA introduced a requirement for banks to maintain a reserve of assets and segregation requirements for reserve assets of EMTs, banks would be disadvantaged being subject to liquidity and leverage ratio requirements on reserve assets held. As above, we advocate for maintaining flexibility for the application of prudential requirements on reserve assets for highly regulated banks.

Consideration should also be given to avoiding unintended regulatory asymmetries between bank-issued EMTs and EMTs issued by EMIs, including those that may arise from the interaction with the revised Deposit Guarantee Scheme Directive (DGSD). Under the revised DGSD, safeguarded client funds held by an EMI in segregated accounts with a credit institution may benefit from DGS protection, subject to the applicable conditions, whereas equivalent protection does not appear to apply to EMTs issued directly by a credit institution. The interaction between the DGSD and MiCA should therefore be further assessed to ensure a coherent treatment of comparable risks and avoid unintended regulatory distortions between different EMT issuance models.

2.4. Criteria for determining significance

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

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

Significant token criterion	EMTs	ARTs
Number of holders / users exceeding 10 million (Articles 43(1)(a) and 56)	4	4
Total outstanding value / market capitalisation exceeding EUR 5 billion (Articles 43(1)(b) and 56)	5	5
Transaction volume or value per day (average 2.5 million transactions and EUR 500 million) (Articles 43(1)(c) and 54)	4	4

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

We view that the current quantitative thresholds on “significant” EMTs and ARTs should be adjusted upwards, as the current thresholds may result in EMTs and ARTs being classified as significant before they reach a scale that creates material financial stability concerns. This is particularly relevant for EMTs issued by credit institutions that are already subject to comprehensive prudential supervision, liquidity requirements, capital requirements, recovery planning and supervisory oversight. In general, we view that market capitalisation constitutes a more relevant and meaningful indicator of the economic importance and potential systemic relevance of a token than the number of holders / users and daily transaction volumes.

MiCA triggers enhanced token-specific requirements at a relatively early stage of market development, in contrast to the US GENIUS Act, which relies more heavily on issuer-based supervision and allows for more significant scale. A moderate increase in the user and transaction thresholds, and a more substantial increase in the EUR 5 billion outstanding-value threshold for EMTs, would better align regulatory burdens with actual systemic relevance while supporting the development of EU-regulated commercial bank money solutions. For EMTs, EUR 5 billion is relatively low compared with: (i) the balance sheets of major EU banks, (ii) volumes processed by traditional payment systems, and (iii) the US GENIUS Act's allowance for issuance of up to USD 10 billion before enhanced supervision and federal oversight is triggered. We support increasing thresholds for significance to EUR 10-15 billion. Such an increase would incentivise adoption and issuance of EUR-denominated stablecoins.

We also support raising the limits imposed by MiCA on non-EUR-denominated EMTs. In general, we support replacing transaction limits with issuance limits, for ease of operationalisation and monitoring.

In addition, the eligibility for an EMT's use for wholesale settlement should not be linked to significance criteria.

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

☒ Yes

☐ No

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

In our view, the current framework could benefit from greater objectivity, predictability and proportionality. For example, the fact that an issuer provides additional crypto-asset services or issues more than one token does not necessarily indicate systemic relevance or financial stability risk. The criterion under Article 43(1)(g) may therefore disproportionately undermine integrated business models and create incentives for artificial organisational fragmentation without delivering on corresponding prudential benefits.

In addition, some qualitative criteria, such as interconnectedness with the financial system, significance of cross-border activities, substitutability, and importance for payment and settlement activities, may be subject to broad interpretation and may create uncertainty for issuers seeking to assess whether a token is likely to be classified as significant.

We support giving additional consideration to:

- Providing more granular and measurable indicators supporting each qualitative criterion.
- Establishing clearer supervisory guidance regarding the circumstances under which qualitative criteria alone may justify a significance designation.
- Taking into account the nature and regulatory status of the issuer, particularly where EMTs are issued by credit institutions that are already subject to comprehensive prudential supervision, liquidity requirements, recovery planning, operational resilience obligations and ongoing supervisory oversight.
- Increasing transparency regarding the methodology used by authorities when assessing qualitative significance factors.

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

☐ Yes

☒ No

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

2.5 Interest payment

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

Option	EMTs	ARTs
Interest and interest-equivalent remuneration should continue to be prohibited	Yes	Yes
Interest or interest-equivalent remuneration should be allowed (fully or under defined conditions)	No	No

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

No, should not be modified. We continue to support retaining the current prohibitions on interest and interest-equivalent remuneration.

However, the topic of remuneration should continue to be monitored in light of international developments, including changes to the US regulatory framework. Should the US formally allow remuneration for stablecoins while the EUEU maintains its current prohibition, MiCA-authorised stablecoins could face a competitive and economic disadvantage. In that scenario, consideration should be given to reassessing whether certain forms of remuneration linked to stablecoins should be recognised.

2.6. Redemption

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

We understand the operational costs associated with redemption procedures can be significant, particularly with regard to KYC/AML checks, customer onboarding requirements and the provision of bank account details for redemption proceeds.

In this context, it would be reasonable to allow issuers to charge redemption fees reflecting the actual costs incurred in processing such requests, as already envisaged by other jurisdictions (e.g. US Genius Act). Such an approach would help ensure that the costs generated by individual redemption requests are borne by the requesting holders rather than by the broader user base.

In addition, it is important that issuers be allowed sufficient time following the completion of the KYC process to execute the redemption.

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

Our expectation is that, in normal market conditions, users would likely use venues or brokers to sell or exchange EMTs as the easiest way to offload a token. We note that redemption against the issuer remains an option.

In normal market conditions, most users are likely to choose the most convenient and immediate liquidity channel. For many holders, selling or exchanging EMTs through a trading venue, wallet provider, payment platform or intermediary is likely to be operationally simpler and faster than initiating a direct redemption request with the issuer. This mirrors behaviour observed in traditional financial markets, where investors typically rely on secondary market liquidity before exercising direct redemption rights. The statutory redemption right remains an important consumer protection mechanism, but in normal conditions it is expected to operate primarily as a backstop that supports confidence in the EMT's value and facilitates efficient secondary market pricing.

In normal markets, users mainly trade or spend EMTs, while in stress scenarios direct issuer redemption may become more important. While sale or exchange through a broker or trading venue is likely to remain the preferred option for ease where sufficient liquidity and a stable value are maintained despite market stress, statutory redemption rights are a core stabilising mechanism and a key mechanism for maintaining confidence in EMTs during such times. If secondary market liquidity deteriorates or the EMT begins trading below par value, rational holders would be expected to rely increasingly on direct redemption with the issuer or its authorised agent in order to receive fiat currency at the redemption value established under MiCA. The availability of a legally enforceable redemption right is one of the key features distinguishing regulated EMTs from many other crypto-assets and is a central element of the consumer protection framework. For this reason, redemption arrangements should be operationally robust and capable of functioning effectively even during periods of elevated redemption activity.

We also note that, as investor behaviour may differ in normal market conditions compared to stressed market conditions, the calibration of prudential requirements should also be appropriate for each situation. Currently, by placing prudential requirements on issuers, the regulatory framework assumes that issuers bear the full responsibility for the effective transmission of redemption amounts to end users [which may understate the role of crypto-asset service providers].

Question 23. For each of the redemption rights and rules listed below, please indicate whether the existing MiCA rules should be amended or specified or kept as they are. Please consider, in particular, implications for financial stability, consumer protection, and cross-border usability.

	Weaken	Keep as is	Strengthen
Permanent right of redemption against the issuer, either at market value (ARTs) or at par (EMTs)			X
Timing of redemption (timeframe for redemption by the issuer)			X
Prohibition of redemption fees	X		
Conditions, procedures, and transparency of redemption policies disclosed to holders		X	
Supervisory powers to intervene in or trigger redemption plans		X	

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

We consider that MiCA recognises the permanent right of redemption against the issuer, but does not set out a detailed process for how this right would be exercised, particularly vis-à-vis third parties. Redemption may also involve fees associated with burning and minting, or the liquidation of reserve assets. Overall, we support maintaining strong redemption rights, especially regarding timing transparency and operational certainty. To promote consistency in redemption timelines, we support the EC to consider setting the redemption timeline to T+1 or 24 hours after the completion of AML/KYC checks on the token holder, in line with the UK's approach. Fast and predictable redemption maintains confidence during stress. Given the EU's strong redemption rights, we would also support further consideration to be given to specifying the redemption regime for cross-border situations, i.e. by non-EU holders. Any such adjustment should be carefully calibrated so as to preserve confidence in the redemption framework while ensuring a fair and proportionate allocation of liquidity resources in stressed scenarios. On redemption fees, we note that other key jurisdictions permit for such commercial structures, and therefore EU issued stablecoins may be competitively disadvantaged in this context. We therefore recommend aligning MiCA with the GENIUS logic: permit redemption fees or at least the recovery of reasonable execution costs, provided that 1) they are clearly disclosed in advance in the white paper and redemption policy and facilitate client understanding; 2) they are fair and proportionate to the actual cost of processing the redemption (not a tool to impair the right itself); and 3) any increase in the fee amount is subject to a minimum prior-notice period to holders.

2.7. Stability issues

Question 24. Articles 46 and 47 require issuers of ARTs and EMT to prepare a recovery plan and a redemption plan in case an issuer cannot comply with reserve requirements e.g. due to significant and sudden requests for redemptions. Please indicate whether the current MiCA requirements are fit for purpose in those regards or should be amended.

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

The current MiCA requirements on recovery and redemption plans for both ARTs and EMTs appear broadly fit for purpose and should be maintained. While we consider that the overall framework should remain unchanged (particularly as there is currently no evidence of its shortcomings), supervisory guidance could provide additional clarity regarding how credit institution issuers (subject to recovery and resolution regime) could possibly leverage existing stress-testing methodologies, redemption scenarios, and operational readiness expectations, as well as provide guidance on the interaction between recovery plans and redemption plans for EMTs and broader prudential or resolution frameworks. Any future review of the framework could therefore consider streamlining some of the planning obligations, particularly for non-significant tokens, while preserving the core objectives of investor protection, financial stability and sound risk management.

We also observe that compared to equivalent international frameworks, MiCA already imposes more detailed token-specific recovery and redemption planning obligations than some comparable regimes. For example, the US GENIUS Act focuses primarily on reserve quality, redemption rights, prudential supervision and disclosure requirements rather than establishing a similarly detailed recovery and redemption planning framework. This suggests that the EU framework is already comparatively robust and does not currently require further strengthening.

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

Please rate the appropriateness and desirability of the following policy options for EMTs issued by e-money institutions on a scale of 1 to 5, where:

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

Allowing EMT issuers to deposit their reserve assets directly into central bank accounts	2
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	4
Establishing a dedicated resolution regime for EMIs issuing EMTs	4

Allowing emergency liquidity support / lender-of-last-resort (LOLR) facilities for EMTs issuing EMTs	1
Others	

We are supportive of enhancing monetary and financial safeguards for EMTs issuing EMTs, and of measures that strengthen the safety, resilience and credibility of EMTs while maintaining proportionality and avoiding unnecessary duplication of existing prudential frameworks. However, careful consideration should be given to the macroeconomic and financial stability implications of such measures, as well as their possible impact on credit intermediation. For example, allowing non-bank EMT issuers to deposit their reserve assets directly into central bank accounts would more closely integrate EMTs with central bank liabilities and associate such stablecoins with stores of value pegged to central bank guarantees; this might introduce additional considerations and financial stability risks during a crisis. Only bank issuers should be granted access to remunerated central bank accounts to deposit part of their reserves.

In addition, we consider that any circumstances in which central bank liquidity support arrangements are extended to non-bank issuers would need to be subject to further study and consultation on clear and strict constraints, in particular to ensure that financial risks are sufficiently mitigated for stablecoin issuers accessing central bank lending facilities. We remain of the view that only banks and broker-dealers should be provided access to the Discount Window Facility and other key market operations. As an alternative tailored solution for non-bank stablecoin issuers, while limiting risks to monetary and financial stability, we consider that a “skinny account” or “special-purpose payment account” could be contemplated, such as that currently under consideration in the US. Any future consideration of public liquidity support should be accompanied by appropriate prudential requirements and safeguards to avoid moral hazard and competitive distortions.

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

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

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

We consider that holding a mix of commercial bank deposits and high-quality liquid assets as reserve assets is appropriate for EMTs. However, the current requirement for holding 30% and 60% of reserve assets in bank deposits may be overly prescriptive and not necessarily represent the most effective or risk-sensitive approach to liquidity management. While commercial bank deposits provide immediate liquidity, they also create concentration and counterparty exposures to the banking sector and may limit the ability of issuers to optimise reserve portfolios according to the characteristics, scale and redemption profile of the EMT. For large-scale EMT issuance, including EMTs denominated in major currencies such as EUR and USD, a rigid deposit requirement may therefore impose constraints that are not always justified by the underlying risk.

A more flexible framework could achieve the same prudential objectives while allowing issuers to hold a broader range of high-quality liquid assets. Depending on market conditions and operational arrangements, short-dated sovereign securities, central bank deposits where available, and other highly liquid and low-risk instruments may provide an equivalent or even higher degree of safety and liquidity than commercial bank deposits. Focusing on the overall quality, liquidity and diversification of reserve assets rather than on fixed minimum percentages would allow reserve management arrangements to be tailored more closely to actual redemption risks while preserving strong consumer protection and financial stability safeguards. Supervisors should retain the ability to require higher liquidity buffers where warranted by an issuer's risk profile, size or redemption patterns, but issuers should be able to demonstrate equivalent liquidity through different reserve compositions.

This approach would also be more consistent with international developments. For example, the US GENIUS Act focuses on the quality, liquidity and safety of reserve assets rather than prescribing a specific proportion that must be maintained in bank deposits. Such a principles-based approach provides greater operational flexibility while continuing to support redemption at par value and prudent reserve management. To promote international competitiveness, consideration should therefore be given to recalibrating the current deposit requirement towards a more risk-based and diversified framework. For these reasons, the current requirement would benefit from greater flexibility while maintaining robust safeguards for EMT holders.

2.8. Global stablecoins arrangements and interactions with other regulatory frameworks

Question 27. What are the potential benefits of global stablecoins for different use cases? For each use case below, please indicate on a scale of 1 to 5 how beneficial global stablecoins would be for EU holders:

- 1: Not beneficial
- 2: Moderately beneficial
- 3: Neutral
- 4: Rather beneficial
- 5: Very beneficial

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

Global stablecoins provide a useful DLT-based programmable money solution for international payments, crypto trading and liquidity provision, settlement of financial instruments, and corporate treasury management. Stablecoins can support near real-time settlement, improved liquidity management and greater interoperability between traditional and digital financial markets.

Promoting global stablecoin arrangements can enable EU companies' and customers' access to EU and non-EU assets, by facilitating global FX on-chain, improved treasury management, and intraday liquidity, as well as benefit the EU banking system through reserve management, repo, and FX commercial opportunities created by USD stablecoin issuers.

Potential benefits also exist in connection with programmable financial services and improving access to financial services in underserved regions. However, these areas remain at an earlier stage of development and may involve additional regulatory, consumer protection, operational and financial crime considerations. Practical adoption and risk management frameworks continue to evolve, with a view to harnessing long-term potential.

As outlined in our responses to question 9 above and question 33 below, we generally support and envisage a multi-money world in the future. The usefulness of stablecoins for each of these use cases in practice will therefore also depend on the development of alternative digital means of payment.

Question 28. How important is it for EU users (both people and businesses) to be able to access global stablecoins via EU-based and licenced issuers and CASPs? Please indicate on a scale of 1 to 5.

	Scale
EU-based and licenced stablecoins issuers	Rather important
EU-based and licenced CASPs	Rather important

To facilitate the sound development of global stablecoin markets, and to ensure that EU users have access to global stablecoins with sufficient protection, it is important for EU users to be able to access such stablecoins through regulated and licensed entities. Access through EU-regulated entities is highly important for trust, consumer protection, and regulatory accountability. Regulation enhances credibility and institutional adoption.

At the same time, the benefits of global stablecoins are closely linked to their ability to operate across jurisdictions and support international payments, trade, treasury management and capital markets activities. For this reason, the location of the issuer should not be the sole determinant of whether EU users can access a stablecoin. What is most important is that issuers and intermediaries are subject to regulatory requirements that provide equivalent safeguards in areas such as reserve management, redemption rights, governance, operational resilience and AML/CFT controls.

An approach that combines strong EU supervision with openness to appropriately regulated global stablecoin arrangements would support innovation, competition and consumer choice while avoiding unnecessary market fragmentation. As jurisdictions such as the US establish dedicated stablecoin frameworks through initiatives such as the GENIUS Act, international interoperability and regulatory equivalence will become increasingly important. The EU framework should therefore support both EU-based providers and appropriately supervised global stablecoin arrangements that can deliver benefits to EU consumers and businesses.

Question 29. 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?

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

Identified Risk	Rating
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)	3
Unbalanced reserve distribution across jurisdictions (e.g. fragmentation of reserves between EU and non-EU entities)	3
Regulatory arbitrage due to fungibility of tokens (e.g. operation across regimes exploiting differences in prudential or conduct rules)	3
Supervisory monitoring and data-tracking challenges (e.g. difficulty measuring EU-holdings, especially holdings in self-custodial wallets)	2
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.	3

Others	
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It is difficult to make assumptions about the risks associated with a multi-issuance model of global stablecoins, without live examples in practice. While we agree with the identified risks ([also outlined in the ESRB report and recommendations]), we do think that existing safeguards under MiCA – and reinforcement through supervisory cooperation - can help address and mitigate those risks. To help reinforce assurance to EU authorities on mitigating risks surrounding a multi-issuance model, we also support the introduction of additional safeguards to enhance centralised supervision, equivalence assessments, supervisory cooperation agreements and cross-border reserve mobility.

In terms of existing safeguards, MiCA adequately regulates for run risk and reserve depletion in the EU, as well as unbalanced reserve distribution across jurisdictions. While market stress could lead to shifts in token holdings and redemption activity across jurisdictions, MiCA already requires reserve backing, liquidity management, redemption rights and recovery planning. Where each issuer maintains adequate reserves and remains responsible for its own obligations, these risks should be mitigated. In some cases, diversification across jurisdictions may even enhance resilience by reducing reliance on a single issuer or reserve pool.

Cross-border reserve transfer restrictions represent a more significant concern. Legal, regulatory or operational barriers affecting the movement of reserves during periods of stress could limit liquidity management flexibility and complicate redemption processes. Similarly, the potential for regulatory arbitrage resulting from token fungibility may arise where materially different prudential, conduct or reserve requirements apply across jurisdictions. These risks highlight the importance of enforceable supervisory cooperation with third countries, regulatory convergence, and common international standards in supporting robust global stablecoin arrangements and limiting liquidity risk concentration

Supervisory monitoring and data-tracking challenges are also significant, particularly given the ability of stablecoins to move rapidly across jurisdictions, platforms and self-custodial wallets. Enhanced reporting frameworks, data-sharing arrangements and international supervisory cooperation will be important to ensure effective oversight, and these are readily in-place or implementable. Greater convergence between jurisdictions around core principles such as reserve quality, redemption rights, operational resilience and transparency would help address these concerns.

Additional risks include operational interoperability challenges and geopolitical fragmentation. The effectiveness of a global stablecoin arrangement depends on seamless interaction between issuers, infrastructures and regulatory frameworks. Incompatible technical standards, legal requirements or restrictions on cross-border cooperation could reduce efficiency and resilience. Overall, the appropriate policy response is not to discourage multi-issuance global stablecoin models, but to strengthen interoperability, transparency, redemption certainty and international regulatory cooperation so that their benefits can be realised while maintaining high standards of consumer protection and financial stability.

Question 30. MiCA does not currently prohibit multi-issuer models, nor does the EU have jurisdiction to determine how third country entities, that also have licensed entities in the EU, should be regulated in third country jurisdictions. Given your assessment of the advantages or disadvantages of global stablecoins and multi-issuance models, do you think that MiCA should continue to be open to multi-issuance models?

☒ Yes, the multi-issuance model for stablecoins should be permitted under MiCA

☐ No, MiCA should disallow the multi-issuance model for stablecoins

Yes, as noted above, we consider that the potential advantages of global stablecoins outweigh the associated risks.

An outright prohibition of the multi-issuance model could fragment liquidity, reduce interoperability and limit access by EU users and businesses to a significant part of the DLT ecosystem. This could also increase costs for EU CASPs and cut off the EU's DLT markets from the rest of the world.

Finally, the prohibition could create incentives for users to access these stablecoins through unregulated channels and/or outside EU-supervised channels. In the interest of broadening market

access by EU issuers and users to global stablecoins, we strongly support the establishment of enforceable supervisory and regulatory cooperation agreements on rebalancing mechanisms and in limiting any barriers to the transfer of assets between two or more jurisdictions, in going concern as well as in stress, recovery and resolution scenarios. We would also support the supervision of such schemes by EU-level authorities, e.g. the EBA, rather than on a national basis.

Question 31. MiCA considers that all EMTs that are pegged to or denominated in an EU currency are offered to the EU and therefore fully subject to MiCA issuer requirements. Does this approach continue to be justified in view of market developments? Does it discourage the international role of the euro?

- ☒ Yes
☐ No

We are supportive of continuing to subject EMTs denominated in EU currencies and offered to the EU to MiCA issuer requirements. While we observe that most stablecoins globally are denominated in USD, we do not believe that changing the regulatory treatment for single-issuance stablecoins would significantly influence the current status quo or boost the international role of the euro.

In the absence of a workable global stablecoin regime, however, the current approach may have unintended consequences for the international role of the euro. Global stablecoins increasingly operate across jurisdictions and support cross-border payments, treasury management and tokenised financial markets. If euro-denominated stablecoins face challenges in being interoperable with international systems, frameworks and stablecoins denominated in other major currencies, issuers and users may favour alternative currencies. The objective should therefore be to maintain strong safeguards while ensuring that the regulatory framework remains proportionate, internationally competitive and supportive of the development of global euro-denominated stablecoin arrangements.

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

See answer to Question 31.

The advantages of this approach are that it sets and upholds high standards for global stablecoins with appropriate regulation and prevents circumvention of MiCA by offshore-issued euro-denominated stablecoins. This approach also protects EU holders uniformly, preserves monetary sovereignty, and allows EU issuers to compete in global markets.

The international success of Euro-denominated stablecoins will ultimately depend on broader factors, including the global strength and attractiveness of the euro as a currency, as well as the ease of its integration into real-world payment systems and digital financial products both within and outside the EU. We note that US dollar-denominated stablecoins have established a dominant position over more than a decade, well before the introduction of specific regulatory frameworks in either the US or the EU. This structural lead is therefore unlikely to be materially reversed solely through regulatory reforms under MiCAR.

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

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

Objective	
Strengthening EU payment autonomy in retail payments	N/A
Strengthening EU payment autonomy in wholesale payments	To a large extent
Enhancing the international role of the euro	To a large extent

We consider that euro-denominated stablecoins can contribute to the objectives of EU payment autonomy, particularly in wholesale and cross-border use cases, by supporting near real-time settlement, 24/7 availability, programmable payments and more efficient cross-border transactions. Stablecoins can increase competition, resilience and innovation within the European payments ecosystem while boosting EU infrastructures. By distributing EUR-denominated MiCA-regulated stablecoins on public blockchains, we also foresee an enlarged role for the international role of the euro, as public blockchains (not subject to the control of any single sovereign / private sector entity) can offer broadened access whilst those stablecoins remain under the control of EU authorities. However, in a multi-money future, the availability of DLT-based central bank money and usability of other commercial bank money solutions, including tokenised deposits and deposit tokens, are also likely to have significant impact – if not greater impact – on EU monetary objectives, and we therefore encourage authorities to accelerate work on these other solutions in parallel to improving the EU stablecoins regime under MiCA.

2.10. Current safeguards in MiCA

Question 34. MiCA provides safeguards to mitigate the risks of multi-issuance stablecoins. For each safeguard listed below, please indicate how effective you consider it to be on a scale where 1 means 'Not effective at all' and 5 means 'Highly effective'.

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

Overall, MiCA contains a robust set of safeguards that help to address many of the risks that may arise in connection with global and multi-issuance stablecoin arrangements. Furthermore, the ESRB has recommended a number of additional safeguards – including the establishment of a framework for the assessment of the equivalence of third-country regulatory and supervisory regimes – that can improve the functioning of a multi-issuance framework. We are supportive of operationalising the ESRB's proposed safeguards to avoid a situation where multi-issuance stablecoins are prohibited in practice.

Ensuring the enforcement of redemption rights is critical to a functional and robust multi-issuance model. We consider that reserve location, composition and liquidity requirements are among the most effective safeguards because they directly support redemption capacity, reserve quality, liquidity management and consumer protection.

Supervisory intervention powers available to competent authorities, national supervisors and the EBA also provide important mechanisms to address emerging risks, market disruptions and threats to consumer protection and financial stability. These powers are particularly valuable in a rapidly evolving market environment where supervisors may need to respond quickly to unforeseen developments. Their effectiveness, however, depends on close coordination between authorities, timely access to information and a high degree of supervisory cooperation across jurisdictions.

While the current safeguards should generally be effective, the most important challenge for global stablecoin arrangements is not necessarily the absence of regulatory powers but rather the need to ensure interoperability, transparency and coordination between regulatory frameworks. As global stablecoin markets continue to develop, greater emphasis should be placed on supervisory cooperation, data sharing, common prudential principles and regulatory convergence across jurisdictions. In this regard, the existing MiCA safeguards provide a strong foundation and support the continued viability of

multi-issuance stablecoin models while maintaining high standards of consumer protection and financial stability.

Question 35. MiCA requires that the reserves of the EMTs and ARTs issued, offered or held in the EU should be held in the EU. Can the tokens held in the EU be determined or estimated with sufficient accuracy and frequency?

- ☐ Yes, EU holdings can be determined with sufficient accuracy and frequency
- ☒ Partially, but with some limitations (e.g., delays, estimation challenges)
- ☐ No, current methods are insufficient for reliable compliance
- ☐ Uncertain

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

We observe that the reserves of EMTs issued, offered, or held in the EU can be determined and estimated with sufficient accuracy and frequency in many cases. However, as the question rightly suggests, there are limitations in relation to unhosted wallets. While it is possible to identify wallet addresses and token balances on a blockchain, it is generally not possible to precisely determine the location or residency of the wallet holder. As a result, holdings in unhosted wallets can only be estimated indirectly. For this reason, we support compliance being based on reasonable and risk-based methodologies rather than on a requirement to determine the precise location of all tokens in real time. To support a global stablecoin framework, the objective should be to achieve a sufficiently accurate estimate of EU holdings for supervisory and reserve management purposes.

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

- ☐ Yes
- ☒ No

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

In our view, redemption rights should be extended to all holders of MiCA-authorised tokens, regardless of whether they are EU or third-country holders.

One of the key features that supports confidence in stablecoins is the ability of holders to redeem them at par value. Restricting redemption rights to EU holders is likely to create operational complexity, legal uncertainty, fragmentation between EU and non-EU users holding the same token, and challenges for ensuring consistent economic interests for token-holders.

Such a restriction would also be difficult to reconcile with the global nature of stablecoins and with the objective of promoting the international use of EUR-denominated stablecoins. In practice, stablecoins are designed to support cross-border payments, treasury management, settlement and other international use cases. Limiting redemption rights based on the location or residency of the holder could reduce the attractiveness of EUR-denominated stablecoins relative to other global stablecoin arrangements and may discourage their adoption outside the European Union. We acknowledge the EU’s objective to protect the rights of EU customers and holders. However, we view that the regulatory and supervisory focus should instead be on ensuring that issuers maintain sufficient reserves, rebalancing mechanisms, liquidity and operational arrangements to honour redemption requests, as well as compliance with applicable sanctions, AML/CFT, and other legal requirements. Furthermore, the EU could consider introducing specific guidance on cross-border redemption.

A useful comparison can be made with traditional electronic money and bank money. Holders of e-money or bank deposits do not generally lose their right to redeem or withdraw funds because they are located outside the jurisdiction in which the issuer is established. Similarly, where a regulated issuer has issued a stablecoin, redemption rights should be attached to the token itself rather than the geographic location of the holder.

Preserving broad redemption rights supports confidence, financial stability and the development of globally competitive euro-denominated stablecoins while remaining consistent with the objectives of MiCA. In addition, limiting the redemption right to EU holders would introduce significant operational complexity, as issuers would need to identify, verify and continuously monitor whether each holder qualifies as an EU holder, creating high costs and practical difficulties, particularly in relation to unhosted wallets.

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

- ☐ Valid-substantiated
☒ Not valid-not substantiated

Please explain your response.

While we acknowledge perceived concerns surrounding reserve asset transfers and rebalancing and the exercise of redemption rights in a multi-issuance model, we consider that jurisdictional requirements on issuers, reserve asset requirements and 1:1 backing should help to prevent asset transfer and rebalancing challenges in times of market stress. In a well-designed and well-regulated multi-issuance model, each issuer should maintain sufficient reserves, liquidity resources and redemption capacity to meet its own obligations under the applicable local regulatory framework. As a result, the stability of the arrangement should not depend on the rapid transfer of reserve assets between jurisdictions during periods of stress. Instead, local reserves, effective liquidity planning and robust governance arrangements should ensure that redemption obligations can be met independently.

We do note that supervisory actions to prevent reserve asset transfers may delay or restrict such transfers. For this reason, it is imperative to have robust and enforceable regulatory and supervisory arrangements in place. The key policy objective should therefore be to ensure robust reserve management, transparency, contingency planning and supervisory cooperation rather than to restrict multi-issuance models.

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

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

Possible additional mitigation measure	Effectiveness
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)	3
Restricting direct redemption rights in the EU to holders who are clients of EU-authorised CASPs, while holders that keep the tokens in un-hosted wallets do not have a MiCA guaranteed redemption right in the EU.	3
Differentiating redemption rights in crisis situations between retail and wholesale/professional holders	1
Requiring a dedicated liquidity buffer or additional reserve tranche specifically calibrated to cover short-term redemption spikes in the EU	2
Strengthening real-time or high-frequency reserve and liquidity reporting to EU competent authorities, including granular disclosure of reserve location and transfer constraints	4

Establishing binding cooperation arrangements between home and host supervisors to ensure rapid approval and execution of cross-border reserve transfers in stress scenarios	5
Others	4

If your answer is "Others", please elaborate.

We consider that a number of other mitigation measures could be effective:

- Establishing workable pre-defined intra-group liquidity and reserve transfer arrangements between entities / issuers participating in a multi-issuance arrangement / network
- Requiring periodic cross-border liquidity stress testing and redemption simulations involving issuers and relevant supervisory authorities
- Introducing standardised reserve reporting and supervisory data-sharing mechanisms across jurisdictions
- Promoting formal supervisory cooperation arrangements or colleges for significant global stablecoin arrangements

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

Any amendments to redemption rights should be assessed carefully in light of their operational feasibility, proportionality and potential impact on user confidence. Introducing requirements that would favour or strengthen the redemption rights of holders of stablecoins that are genuinely circulating in the EU and restricting redemption rights to clients of EU-authorised CASPs may provide some supervisory and operational benefits, but such measures could also introduce significant complexity. In particular, they may require issuers to identify and continuously monitor the status, location and distribution channel of token holders, which may be difficult in a global and interoperable stablecoin environment where tokens can move rapidly between custodial and non-custodial arrangements. As such, any changes to redemption rights need to be balanced with ensuring legal certainty, sustaining user confidence, and maintaining the attractiveness of regulated stablecoins for cross-border and global use.

Given that redemption rights are a core feature underpinning trust in stablecoins, restrictions based on wallet type, intermediary or holder category may generate unintended consequences that outweigh the potential benefits. In addition, we do not support differentiating redemption rights between retail and wholesale holders, which could lead to a suboptimal regulatory outcome and market distortions, by introducing differentiated levels of protection for holders of the same token.

Requiring a dedicated liquidity buffer or additional reserve tranche calibrated to cover short-term redemption spikes in the EU may provide an additional layer of protection in specific stress scenarios and could strengthen confidence in an issuer's ability to absorb temporary increases in redemption activity. Nevertheless, the measure should be assessed in the context of the broader MiCA framework, which already includes reserve asset, liquidity, recovery and redemption planning requirements. The effectiveness of an additional buffer would depend heavily on its calibration and design, and there is a risk that excessive liquidity requirements could reduce reserve efficiency and increase costs without materially improving resilience. For this reason, such a measure may offer some benefits but is likely to be less effective than measures focused on transparency, supervisory cooperation and cross-border liquidity management arrangements.

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

- ☐ Yes but only if other mitigation measures are not introduced
☒ Yes, in addition to mitigation measures
☐ No

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

An equivalence regime for global stablecoins could provide significant benefits by reducing regulatory fragmentation, supporting cross-border interoperability and enabling globally scalable stablecoin arrangements while maintaining high standards of consumer protection and financial stability. Given the international nature of stablecoins and their increasing role in payment, treasury management, and settlement, the EU should remain open to recognising third-country regimes that achieve outcomes broadly comparable to MiCA in areas such as issuer and authorisation requirements, reserve management, redemption rights, governance, operational resilience and supervisory oversight. However, equivalence should complement, rather than replace, existing safeguards and should be supported by appropriate supervisory cooperation, information sharing and risk mitigation measures. Such an approach would help support innovation, competitiveness and the international role of the euro while preserving the core objectives of MiCA. While we are overall supportive of introducing an equivalence regime, this will take time and so we consider that the EU should implement and conclude equivalence assessments on a principles- and outcomes-based approach at pace, to avoid the operationalisation of an equivalence mechanism standing in the way of global market access.

Question 41. Equivalence regimes can rely on the third country's regime to various degrees. How far, in your opinion, should a possible equivalence regime go in terms of relying on third-country regime? What rights or benefits should EU issuers derive from equivalence of a third country and what rights or benefits in the EU should issuers from an equivalent jurisdiction receive in the EU?

We support an equivalence regime to be established on the basis of the FSB and IOSCO standards for crypto-asset markets and activities and global stablecoin arrangements, whereby any third-country regime in adherence to those standards should be considered equivalent by the EU. A possible equivalence regime should be based on regulatory outcomes rather than strict rule-by-rule alignment. Equivalence should be granted where a third-country framework achieves broadly comparable outcomes to MiCA in areas such as reserve management, redemption rights, governance, operational resilience, transparency and supervisory oversight. Where equivalence is recognised, issuers from equivalent jurisdictions should benefit from simplified market access and reduced duplicative compliance requirements, while EU issuers should receive reciprocal treatment in those jurisdictions. At the same time, EU authorities should retain appropriate powers to obtain information, cooperate with third-country supervisors and intervene where necessary to protect consumers or financial stability. An outcomes-based and reciprocal equivalence framework would reduce regulatory fragmentation, support global stablecoin arrangements and promote the international competitiveness of EU-regulated issuers while maintaining the key safeguards underpinning MiCA.

Question 42. What administrative simplification or burden reduction measures should be considered under titles III and IV and their implementing measures and technical standards? Do you believe that MiCA level 1 provisions lay down proportionate rules for issuers of EMTs and ARTs?

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

MiCA Level 1 requirements for ARTs and EMTs issuers	Agreement?
Authorisation of ARTs and EMTs issuers	4
Prudential requirements	3
Governance arrangements	4
Obligations in respect of specific crypto-asset services	3

Overall, MiCA provides a robust framework for the authorisation of EMT and ART issuers and contributes to legal certainty, consumer protection and market confidence. However, there may be scope for targeted simplifications to reduce unnecessary duplication and facilitate the development of global stablecoin arrangements. In particular, as noted above, greater consideration could be given to recognising equivalent third-country regulatory frameworks and existing authorisations where issuers are already

licensed and supervised as e-money institutions or equivalent regulated entities under regimes that achieve outcomes broadly comparable to MiCA.

Such an approach could allow greater reliance on existing local authorisations, prudential supervision and governance frameworks, subject to appropriate equivalence assessments, supervisory cooperation arrangements and information-sharing mechanisms. This would reduce duplicative authorisation processes, support cross-border interoperability and facilitate the development of global stablecoin arrangements while preserving the core safeguards relating to reserve management, redemption rights, operational resilience and consumer protection. An outcomes-based approach focused on regulatory equivalence rather than identical legal requirements would also be consistent with broader efforts to reduce regulatory fragmentation and promote internationally competitive stablecoin markets.

More generally, the authorisation process could be streamlined through greater standardisation of application requirements, clearer supervisory guidance and enhanced coordination between competent authorities, particularly for stablecoin arrangements involving multiple issuers operating across several jurisdictions.

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

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

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

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

Overall, the MiCA level 2 framework is broadly appropriate, but certain elements could be further simplified and calibrated to better reflect issuer size, business model and risk profile. The main area of concern relates to the significance criteria framework, which may result in EMTs and ARTs being classified as significant relatively early in their development, particularly for global payment, treasury and settlement use cases. This may trigger enhanced requirements before a token reaches a level of scale that introduces financial stability concerns. Consideration should therefore be given to recalibrating certain quantitative thresholds, increasing transparency around qualitative assessments and adopting a more risk-based approach focused on actual systemic relevance.

In addition, the authorisation framework could place greater reliance on existing regulatory approvals and equivalent prudential regimes, particularly for licensed EMTs and (bank) entities that are already subject to robust supervision, while the own funds framework could better recognise existing capital and risk management arrangements within regulated financial groups. Such adjustments would reduce unnecessary administrative burdens, support innovation and international competitiveness, and maintain the core objectives of consumer protection and financial stability.

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

- ☒ Yes
☐ No

Please explain:

We support greater standardisation of APIs and reporting templates to improve issuer compliance and supervision.

In relation to multi-issuance arrangements, standardised information flows between CASPs and issuers present a key consideration for estimating EU holdings and reserve adequacy within such schemes. Standardisation would support reinforced reporting and white paper transparency, and therefore would be support stability in model conditional on authorisation

3.1. Crypto-asset services

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

- ☐ Yes
☒ No

Question 46. If additional services should be added, what should those be and what requirements should be applied to these services and service providers? If you believe that certain services should be removed, please specify which ones and why.

We view that the current list of crypto-asset services is broadly adequate. However, given the evolution of crypto asset markets and developments in other jurisdictions' regulatory frameworks, we would support adding the following services:

- **Staking:** a dedicated regulatory framework for staking services could provide greater legal certainty and support the responsible development of staking activities within the EU, including by regulated financial institutions. Such a framework should remain proportionate and risk-based, focusing on transparency, client disclosures, operational resilience, governance and the safeguarding of client assets, without unnecessarily restricting innovation or participation in proof-of-stake networks. However, clarification should be provided that staking is not considered as a separate service subject to standalone regulation when it is performed as ancillary to custody services.
- Crypto asset lending and borrowing.

In addition, we support the following clarifications to the list of services under Article 3(16)

- **Article 3(16)(a) providing custody and administration of crypto-assets on behalf of clients** – we view that the concept of custody and administration should remain centered on the safekeeping or control of crypto-assets or their means of access on behalf of clients, combined with position-keeping and restitution obligations. This should exclude purely technical tools that do not give the provider control over the assets or over the client's means of access.
- **Article 3(16)(j) providing transfer services for crypto-assets on behalf of clients** – when this activity is performed as ancillary to a custody service, it should not be considered as a standalone service / activity, but rather, inherent to that custody activity.

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

- ☐ Yes
☒ No

We acknowledge the possible benefits of introducing an appropriateness test for crypto-asset services such as reception and transmission of orders, execution, and placing of orders for enhancing client protection, especially for retail clients. However, as MiCA already includes extensive disclosures, conduct of business, and governance requirements, and appropriateness tests often act as a 'box-ticking' exercise that does not accurately assess clients' knowledge and experience, the costs of introducing appropriateness requirements could introduce friction and costs that outweigh possible benefits. Instead, we would encourage authorities to focus on enhancing financial literacy where needed.

If authorities do decide to establish an appropriateness test, we strongly view that any such assessment should remain proportionate and risk-based, and strike an appropriate balance between strengthening investor protection and operational efficiency for market participants.

Beyond the scope of this question, we also view that MiCA would benefit from having simplified and tiered client categorisation (in line with MIFID), which would differentiate between the treatment of retail and professional clients.

Question 48. The provision in the EU of crypto asset services covered by MiCA requires that the service provider is authorised under MiCA and complies with its requirements. Do you have evidence of non-EU authorised crypto asset services providers continuing to offer their services in the EU? How do they promote their services in the EU? What tools would supervisors or enforcement authorities have, or should they have, to stop non-authorised service providers from offering their services in the EU or to EU customers?

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

Answer:

We continue to observe some non-EU crypto assets service providers seeking to provide services to EU customers; some of these practices, e.g. through promotions on social media channels, may be in breach of reverse solicitation requirements under MiCA.

In terms of tools that could effectively enhance supervision, we support strengthening practical enforcement and cooperation between international jurisdictions. This would help to ensure adequate level playing field and limit regulatory arbitrage, as well as improve more consistent supervision and enforcement of existing rules vis-à-vis digital platforms. We do not currently consider the reverse solicitation exemption, which is narrowly defined, as a source of concern.

3.2. Prudential requirements for CASPs

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

- ☐ It is appropriate to capture the risks associated with the provision of crypto-asset services
☒ It would be warranted to adjust the prudential stance

While we overall view that the prudential requirements applicable to CASPs are well-calibrated, we would support adjusting those requirements for large CASPs that perform activities that are economically similar to investment firms and other regulated financial institutions subject to higher prudential requirements. We support aligning the prudential framework for large CASPs with the Investment Firms Regulation and Directive (including K-factors). However, with regards to entities holding multiple licenses (such as a CASP licence and investment firm licence), the rules should not duplicate capital requirements and clarify that the higher of the prudential requirements apply.

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

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

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

	Adequate or should be recalibrated?
Minimum initial capital for Class 1 (EUR 50,000)	3
Minimum initial capital for Class 2 (EUR 125,000)	3
Minimum initial capital for Class 3 (EUR 150,000)	3

We do not view that the challenge is the absolute level of minimum capital, but rather that the framework should adequately capture the scale, complexity, and risk profiles of CASPs. We would support a more risk-sensitive approach to setting prudential requirements for CASPs.

3.3. Multi-function groups

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

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

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

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

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

We do not view that entities providing multiple services justify an additional layer of oversight. Existing MiCA governance, conflicts of interest, and organisational requirements, in addition to existing sectoral regulation, already provide a robust framework for risk management. We do support enhancing coordination and cooperation between different authorities, as well as streamlining requirements in relation to entities that provide multiple services in line with EU objectives on regulatory simplification.

3.4. Reporting

Question 52. Should CASPs report regularly their activities? If yes, what kind of reporting would be useful? How often?

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

We view that any additional reporting requirements for CASPs should deliver on the objectives of enhancing market transparency, discipline, and risk monitoring whilst not duplicating existing requirements imposed on financial institutions, e.g. EMIR. In particular, any reporting requirements should focus on aggregate risk indicators with the aim of tackling risks and vulnerabilities, rather than prescriptive and detailed transaction-level reporting. Where relevant, existing group level reporting to a centralised authority is also preferable to individual reporting, for the purpose of avoiding duplication and inconsistency.

Specifically on the possible individual requirements, we note that:

- Information on the direct holdings of crypto-assets by CASPs should avoid overly detailed disclosures of clients or key parameters, not least to avoid cyber risk vulnerabilities; and
- Derivatives with crypto-assets as the underlying assets are not subject to MiCA, and therefore should remain out of scope of any reporting requirements for entities already subject to the relevant sectoral legislation (e.g. EMIR). However, for CASPs that are not subject to existing rules on derivatives reporting, a reporting requirement should be considered to maintain market transparency and a level playing field; and
- Reporting requirements on counterparty risk should focus on improving market discipline through identifying potentially excessive risk concentration rather than on the quantum of crypto asset holdings.
- Fraud monitoring and reporting should be implemented through the collection and analysis of fraud-related indicators, including suspicious transactions, transfers to high-risk wallet addresses, and alerts generated by monitoring systems. Reporting should provide regular insights on fraud trends, emerging threats, key risk indicators, and mitigation actions. The purpose is to support risk assessment, enhance the effectiveness of fraud prevention controls, ensure timely escalation of relevant cases, and strengthen investor protection.

3.5. Environmental and sustainability reporting

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

- ☐ Fully appropriate and proportionate
- ☐ Broadly appropriate, with limited areas for clarification
- ☒ Partially appropriate, but improvements could be considered
- ☐ Not appropriate

Please explain your assessment.

We view that the current framework provides a degree of useful transparency. However, the environmental/sustainability impact of a crypto asset largely depends on the underlying DLT network, i.e. whether it is proof-of-work or proof-of-stake. Obtaining reliable and consistent data may be difficult where the relevant information depends on decentralised infrastructures or third-party/third-country service providers. In addition, certain metrics may not always be easily understood by users, which can limit the effectiveness of disclosures as a decision-making tool. To improve usability and simplification, the reporting obligation should therefore focus on network data rather than individual crypto assets; this is especially the case for less energy intensive network (e.g. proof-of-stake), where the reporting requirements should be adapted and streamlined.

3.6 Other Issues

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

We view that DORA is sufficient to address resilience and cybersecurity risks, and the interaction between MiCA and DORA is clear. The focus should be on ensuring the consistent application of DORA by market participants and supervisors across crypto asset activities and traditional financial services, rather than to create specific cybersecurity rules for crypto assets.

Crypto-asset service providers (CASPs) are unlikely to develop and operate their entire infrastructure in-house and will therefore rely extensively on outsourcing arrangements, including critical ICT services. In this respect, the interaction between MiCA and DORA appears both clear and effective, providing a coherent and comprehensive framework for the management of operational, cyber and ICT-related risks arising from the use of third-party service providers. However, there may be areas where further assessment regarding the interaction between MiCA's operational continuity requirements and DORA's ICT risk management obligations may be needed, for example in relation to bank-CASP partnership models, key management, and smart contract security.

More generally, it would be important to ensure a level playing field regarding the application of DORA requirements across market participants. While proportionality is a key principle, cybersecurity, data protection and payment-related risks are not solely determined by the size of an institution. Even relatively small entities may process significant volumes of sensitive customer data or provide services that are critical from an operational and financial stability perspective. For this reason, we believe that fintech firms should not be subject to disproportionately lighter DORA requirements where this could result in weaker risk management standards or create regulatory inconsistencies across entities performing comparable activities.

Question 55. The Payment Services Directive has been substantially reviewed recently, bringing notably more clarity on the interplay between the MiCA rules applying to the transfer services in relation to e-money tokens and the rules under the payment services framework which apply to the provision of payment services. As a result, the PSD3/R will clarify which crypto-asset services may qualify as payment services, including targeted exclusions from the scope of PSD3/R for specific types of transactions/exchanges involving EMTs, and will specify the authorisation process under PSD3 in cases where CASPs are required to obtain a PSD3 authorisation. Do you consider these changes bring sufficient clarity or are there other issues that remain to be addressed? If so, please explain your response.

- ☒ Yes
☐ No

While the revised PSD3/R brings more clarity to the treatment of EMTs, we would support greater clarification, supervisory convergence, and practical guidance as market participants develop new payment use cases involving EMTs and tokenised payment arrangements. In particular, clarity regarding the respective roles and responsibilities of CASPs, payment service providers and credit institutions in payment flows involving EMTs would support consistent implementation across the EU.

In addition, further clarification would be beneficial regarding the operational boundary between EMT transfers that qualify as payment services and transfers performed in the context of custody, trading, investment or settlement activities falling within the scope of MiCAR or other sectoral legislation. This distinction has significant practical implications, including as regards the application of strong customer authentication and dynamic linking requirements.

In this context, consideration should be given to excluding from the payment services framework transfers of funds that do not constitute independent payment transactions in their own right, but are merely ancillary or integral to another regulated financial service, such as investment, custody or asset management services. This would be particularly appropriate where the transfer does not have payment as its primary purpose but represents one step in the provision of the underlying financial service; where the relevant activity is already subject to an appropriate customer-protection and regulatory framework; and where applying both regimes would result in unnecessary regulatory duplication without addressing materially different risks.

Further clarity would also be beneficial regarding the allocation of responsibility / liability in fraud cases involving CASPs, PSPs, issuers and other infrastructure providers. Liability and customer reimbursement should be allocated proportionately, taking into account each party's actual degree of control, contribution to the loss and compliance with its respective duties of care, including fraud-prevention measures, AML/KYC controls, security arrangements and cooperation in the management of fraudulent events. Liability should therefore not automatically rest with the PSP where other actors in the transaction chain exercise relevant control or have contributed to the loss.

Question 56. Do MiCA provisions governing crypto asset service providers sufficiently allow, or unduly restrict, access for EU consumers and investors to non-EU and global crypto asset trading and liquidity pools? What are the advantages and disadvantages of focusing on EU liquidity or full access to global liquidity?

No.

The development of EU-based liquidity pools is desirable and can strengthen the EU ecosystem. However, this should complement, rather than replace, access to global liquidity. The regulatory framework should allow MiCA-authorised CASPs to access global liquidity in a manner that appropriately manages risks while preserving market efficiency and competitiveness, especially as jurisdictions around the world have implemented their respective crypto asset regulations and frameworks.

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

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

MiCA Level 1 requirements for CASPs	Rating
Authorisation of crypto-asset service providers	3
Prudential requirements	2
Governance arrangements	4
Obligations in respect of specific crypto-asset services	2
Other Title V rules	3

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

We view that the MiCA Level 1 requirements are generally appropriate for CASPs. However, market participants could generally benefit from further clarity on the interaction between MiCA and other regulatory frameworks, including MiFID, investment firms regimes, and electronic money rules. We would also support greater supervisory convergence in ensuring that the rules are applied consistently across Member States. In addition, a streamlined and more efficient authorisation pathway for CRD-regulated credit institutions seeking CASP authorisation would be desirable, reducing unnecessary procedural duplication while maintaining equivalent prudential and conduct standards.

Specifically on obligations in respect of specific crypto-asset services, we would support clarification that for the sole purpose of paying gas fees, CASP-owned crypto assets in client omnibus wallets should not be considered a breach of the segregation requirements under Article 75(7), provided that the CASP's internal records clearly and continuously distinguish client assets from such operational funds. We would particularly welcome ESMA guidance on this point to support legal certainty and supervisory convergence across the EU.

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

1. Strongly disagree
2. Disagree
3. Neither agree nor disagree
4. Agree
5. Strongly agree

MiCA Level acts for CASPs	Rating
RTS on complaint handling for CASPs (Article 71(5))	3
RTS on offering pre-trading and post-trading data to the public (Article 76(16)(a))	3
RTS on content and format of order book and records to be maintained (Article 76(16)(b))	3
RTS on records to be kept of all crypto-asset services, activities, orders and transactions undertaken (Article 68 (10)(b))	2
RTS on the continuity and regularity in performance of crypto services (Article 68 (10)(a))	3

Please explain your ratings and suggest how rules could be made simpler and more proportionate.

We broadly support the MiCA level 2 acts, and view them as proportionate and effective in delivering regulatory outcomes. The exception is the RTS on records, which introduces highly prescriptive requirements without commensurate benefits. We would particularly support consistency between the record keeping requirements under MiCA and similar requirements for other financial services (e.g. alignment on retention periods and record keeping expectations); this would greatly support service provision by CASPs to regulated financial institutions.

PART 4: POLICY AREAS BEYOND THE CURRENT SCOPE OF MICA

4.1. Decentralised finance

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

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

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

	Rating
Exchange services	3
Payments and transaction services	2
Trading and investment services	3
Lending and borrowing services	3
Custody services	3

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

DeFi applications may offer benefits in specific areas such as trading, liquidity provision and access to programmable financial services, in particular through liquidity pooling and peer-to-peer exchanges. However, their use today remains concentrated among technologically sophisticated and highly experienced users, who are able to understand and manage the operational, technical and security risks involved.

While there is clear evidence of the benefits of DeFi for both exchange, trading, and investment services and lending and borrowing services for retail as well as institutional clients, more widespread institutional adoption remains constrained by operational, legal, governance and investor protection concerns. While certain DeFi services demonstrate significant potential, further progress in risk management, legal certainty and regulatory compliance is likely to be required before broader retail and institutional adoption can be achieved.

We would strongly support a regulatory environment where existing financial institutions are enabled to experiment with DeFi and progressively offer DeFi-based services to their clients subject to strong audits and appropriate risk disclosures, enabling the development of internal processes and risk assessment frameworks and ultimately bringing the benefits highlighted above to their end customers, providing safer, cheaper, faster financial services and granting a level-playing-field with other ecosystem players, that are quickly developing their crypto-assets and DeFi capabilities. In this context, we would support allowing CASPs to facilitate access to DeFi under appropriate conditions and a private sector-led certification regime for DeFi protocols that can support due diligence and assessments (see below).

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

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

Risk	Rating
Operational risk	4
Money laundering and terrorist financing risk	4
Market abuse	4
Investor protection risk (information asymmetry, no redress, opacity of functioning)	4
Financial stability	2

Please explain your answers

We acknowledge that DeFi poses risks in the areas of money laundering and terrorist financing, market abuse, and investor protection; however, these risks can be limited through due diligence, risk monitoring, and audits. Currently, DeFi's risk for financial stability remains limited, as its development is still nascent particularly when it comes to institutional adoption, especially in the EU. Financial stability risks should continue to be monitored as the sector develops.

While DeFi can reduce operational risk arising from human errors, there exists other risks associated with technical and smart contract failure from faulty code and cyber incidents. To address this, we

believe the EU should continue to encourage strong private audits and support certification of protocols (see below).

Because DeFi does present opportunities for liquidity provision, market efficiency, and access to programmable financial services, we view that the regulatory framework should facilitate the development of DeFi and give particular consideration for how regulated entities and CASPs might be able to facilitate controlled access to DeFi applications that meet appropriate standards.

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

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

Criteria for establishing absence of full decentralisation	Views
Existence of an identifiable intermediary (person or group of persons) providing a crypto-asset service	4
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)	4
Significant concentration of governance power over the key functionalities of a DeFi protocol	4
Custody of user assets by the DeFi protocol	2
DeFi protocol code is not open source	3
Marketing of a DeFi protocol by an identifiable entity or person	2
Other	

We view that the degree of decentralisation largely depends on the concentration and balance of governance powers and approval process for modifications to a protocol. The presence of control by an identifiable person / group over key functionalities also provides some indication on the degree to which a protocol is decentralised. Similarly, a significant concentration of governance power, enabling a limited number of participants to materially influence the operation, risk profile or future development of the protocol, should also be regarded as a key criterion.

The assessment should focus on who can effectively control, modify, or influence the protocol and its operation in practice. Factors such as whether the code is open source or whether the protocol is marketed by an identifiable entity appear to relate more to transparency or commercial arrangements than to the degree of decentralisation itself.

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

- ☒ Yes
☐ No

Yes. Where CASPs connect clients to DeFi applications, MiCA should require proportionate due diligence, especially where the relevant arrangement involves custody, transfer of client assets, or operational reliance on smart contracts. This should include assessment of control features, auditability, incident management, client disclosures and, where relevant, the legal consequences of asset loss or access failure. MiCA should not hold CASPs accountable to all DeFi outcomes, but should permit CASPs to provide controlled and intermediate access.

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

	Views
CASPs should be able to connect their clients to any decentralised DeFi application, subject to giving appropriate warnings and disclosures on risks	5
CASPs should be liable for certain types of incidents when they have provided access to the relevant DeFi application and clients have been affected	4
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service global (permissionless) liquidity	4
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service only verified liquidity (verified pools)	4
CASPs should only facilitate connection of their clients to decentralised DeFi applications that service global liquidity	4
CASPs should be required to discontinue or discourage connecting clients to DeFi protocols that are strongly associated with illicit activity based on blockchain analytics	5
CASPs should not facilitate connection to decentralised DeFi applications	1
Public bodies should be required, or private organisations incentivised to publish whitelists or blacklists of DeFi protocols based on their risk profile	4
Other	

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

We strongly view that the framework should support controlled institutional access to DeFi while ensuring that regulatory obligations are focused on identifiable control, governance and operational responsibility, consistent with the principle of "same activity, same risk, same regulation". Comprehensive due diligence on the protocols, a private sector-led certification regime for protocols (similar to Credit Rating Agencies for asset issuance due diligence), and audits can help CASPs to determine which DeFi protocols to which they might offer access to clients. We would support public bodies taking an approach where they consult with the industry, certification regimes, and publish their assessment of DeFi protocols based on their risk profiles.

However, while CASPs should conduct comprehensive due diligence assessments on DeFi protocols, CASPs should not be expected to act as guarantors of protocol outcomes where they do not have the ability to control governance, operations or protocol design. Instead, the regulatory focus should be on appropriate disclosures, risk warnings and transparency regarding the nature of the underlying protocol. The liability of firms providing access to a DeFi protocol should be clearly defined by legal arrangements, and regulation should clearly set out the parameters for how liability should be pursued by entities / individuals in case of failure, for example by differentiating risks from the underlying asset on a DeFi protocol versus operational failure of the protocol itself.

We agree that CASPs should be discouraged from facilitating access to protocols that are strongly associated with illicit activity, although any such requirement should be implemented carefully and on a

risk-based basis. Given the evolving nature of DeFi and differing assessments by market participants, overly prescriptive approaches may be difficult to apply consistently in practice.

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

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

In case you support introducing certification schemes for only certain types of DeFi services, please explain which ones and for what reasons.

We support the principle of voluntary certification to establish minimum standards on smart contract security, operational resilience, governance, transparency, and risk management. In our view, the certification regime should be led by private sector bodies (similar to Credit Ratings Agencies) that conduct comprehensive assessments of DeFi protocols and issue ratings to guide the decision of CASPs on access. Appropriately designed certification schemes can provide value by promoting common standards, increasing trust and legal certainty, and supporting a more consistent approach across the EU. In parallel to voluntary certification, we support creating an industry forum with European DeFi builders and discussing how the EU can support them to innovate.

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

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

	Views
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	3
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	3
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	3
DeFi protocols and software developers offering the possibility to create and use non-custodial wallets should be incentivised to obtain a certificate	4

Please explain your responses.

In line with points made above, we support the principle of private sector-led voluntary certification for DeFi protocols.

However, we note that certification should not risk conflating software provision with financial service provision, especially for developers offering non-custodial wallets. Where the provider does not control the assets or the means of access on behalf of clients, the activity should not be equated with custody for technological neutrality purpose. Voluntary or incentivised certification for cybersecurity, resilience and transparency purposes may be especially useful, provided it does not imply that non-custodial wallet providers are custody service providers.

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

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

	Views
Certificates should be issued by qualified private sector entities	5
Certificates should be issued by qualified public sector entities	2
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	4
Only fully decentralised DeFi protocols that reach a certain significance (e.g. based on total value locked) should be required to obtain a certificate	3
CASPs should not be allowed to connect clients with DeFi protocols that are not certified	3

Please explain your responses.

We support voluntary certification led by qualified private sector entities. See above.

4.2. Staking, lending and borrowing of crypto-assets

Question 66. Do you think the current approach whereby staking services are not separately regulated is adequate? If not, what specific requirements should be applied to staking service providers?

- ☐ Yes
☒ No

We support: 1) introducing staking as a crypto asset service, and 2) clarifying that staking performed as an ancillary activity to custody is not a standalone regulated activity. Staking a fundamental pillar of maintaining proof-of-stake blockchain networks. Such a framework should remain proportionate and risk-based, focusing on transparency, client disclosures, operational resilience, governance and the safeguarding of client assets, without unnecessarily restricting innovation or participation in proof-of-stake networks. For example, the UK Cryptoasset Regulations have created a new regulated activity for arranging qualifying cryptoasset staking.

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

- ☒ Yes
☐ No

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

We support a risk-based and proportionate regulatory framework for crypto-asset lending and borrowing, that would improve investor protection, market integrity and financial stability while providing greater legal certainty and enabling the responsible development of these activities within the EU. However, any new regulation should seek to facilitate innovation and take into account comparable developments in other jurisdictions.

Key requirements may include:

- Clear disclosure of lending and borrowing arrangements, including risks, fees, collateral arrangements and redemption conditions;
- Segregation and custody of client assets. We support clear rules distinguishing "on-balance-sheet" lending (platform assumes credit risk, client is unsecured creditor) from custodial/agency models (client assets segregated and protected in insolvency). Clients should have transparent, contractual clarity on which model applies, this was a central source of client harm in the 2022 failures, where users believed assets were segregated when they were not.
- Governance, capital, and prudential requirements for lenders. We support minimum capital requirements proportionate to loan book size and risk, fit-and-proper requirements for management, and stress-testing obligations, broadly mirroring prudential principles applied to traditional non-bank lenders, adapted for crypto-asset volatility and 24/7 markets.
- Liquidity and concentration risk requirements. We support establishing minimum liquidity buffers to meet redemption/margin call demands, and limits on concentration to single counterparties, single collateral types, or correlated crypto-assets (avoiding the "single point of failure" risk embedded in undiversified lending books).
- Transparency regarding the reuse or rehypothecation of client assets. Rehypothecation limits and disclosure should be introduced. If collateral or client crypto-assets are reused (re-lent, re-pledged), this should be capped and explicitly disclosed, with real-time or near-real-time visibility into how client assets are being deployed.
- Operational resilience and cybersecurity requirements;
- Appropriate record-keeping and reporting obligations;
- Client consent requirements where assets may be lent, rehypothecated or otherwise used by the service provider.

The requirements should support institutional participation and innovation while ensuring appropriate protection for clients and market integrity. Absent these requirements, crypto lending will continue to exist in a bifurcated market, well-capitalised, transparent institutional structures (e.g., lender-of-record models with proper collateral segregation) competing against opaque platforms with weaker risk controls, to the detriment of both consumer protection and market integrity. A proportionate framework calibrated to loan book risk (rather than a blanket extension of banking rules) would support responsible growth of this segment while closing the most acute gaps exposed by 2022–2023 market events. Accordingly, where crypto lending and borrowing activities are provided through centralised platforms, they should be brought within MiCAR's scope as regulated crypto-asset services, requiring the relevant CASP authorization and subject to the proportionate requirements outlined above. Where such activities are carried out through decentralised platforms or protocols, the considerations and proposed approach set out above in relation to DeFi should apply.

4.3. Non-fungible tokens

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

☒ Yes

☐ No

If your reply is positive, what do you believe should be the main elements of regulatory requirements applicable to NFTs?

While NFT markets are currently less active than during previous market cycles, they have been associated with fraudulent offerings, misleading marketing practices and investor protection concerns. In addition, legal and regulatory uncertainty may arise where assets are marketed as NFTs but are in fact issued in large series or collections and exhibit characteristics similar to those of other crypto-assets.

We view that a proportionate regulatory framework for NFTs could improve consumer protection, increase transparency and support greater legal certainty for market participants. Any regulatory framework should remain proportionate and risk-based, taking into account the diversity of NFT use cases.

Regulatory considerations applicable to NFTs could include:

- Transparency and disclosure obligations regarding the characteristics and rights associated with the NFT;
- Requirements addressing misleading marketing and promotional practices;

- Governance and operational requirements for service providers facilitating NFT issuance, trading or custody;
- Measures to prevent fraud, market manipulation and other abusive practices;
- Appropriate safeguarding and cybersecurity requirements where providers hold or control users' assets.

4.4. Prediction markets and perpetual futures

Question 69. Do prediction markets present opportunities or risks for EU consumer and investors? If so, please elaborate.

- ☒ Yes
☐ No

Prediction Markets create zero-sum markets available for both retail and institutions. This creates new yield opportunities on events, allowing participants to achieve gains through data analysis, as well as enabling a hedging mechanism for real-life events. We view that prediction markets may require regulation with regards to the following areas: oracle verification and resolutions, market descriptions, insider trading, minimum liquidity, etc.

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

- ☒ By MiFID
☐ By MiCA

We strongly view that contracts captured by MiFID II (i.e. Annex I, Section C) should continue to be subject to MiFID. Prediction market contracts and structures do pose novel considerations, such as: token issuance and transfer, bonding curves or automated pricing mechanisms, liquidity pools, collateral and settlement logic, smart contract governance, and optimistic-oracle mechanisms (including the incentives and dispute process used to determine the outcome). These considerations should remain subject to assessment, i.e. whether further MiCA-style requirements on token governance, disclosure, market integrity, and technology risk are warranted. We also note that some additional components of prediction markets might fall under existing gambling / consumer protection law, and enforcement should be carried out accordingly.

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

We view that authorisation / licensing, product governance (prohibition of unlawful markets), customer protection, and oracle rules should be considered for service providers.

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

- ☒ Yes, by MiFID
☐ Yes, by MiCA
☐ No

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

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

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

Perpetual futures should be subject to the same substantive requirements as other complex leveraged derivatives, including MiFID II investor protection, MiFIR transparency, transaction reporting, and market abuse rules.

4.5. Tokenised deposits

Question 74. Tokenised deposits could be deployed in support of a range of use cases across payments, capital markets, and on-chain financial activities. Based on your experience and expectations, please assess the potential relevance and benefit of tokenised deposits for each of the following use cases in the EU.

Scale used:

- 1 = Not relevant / no meaningful benefit
- 2 = Low relevance / limited benefit
- 3 = Moderate relevance / moderate benefit
- 4 = High relevance / high benefit
- 5 = Very high relevance / transformative benefit

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

Commercial bank money underpins most wholesale financial transactions, and performs a highly complementary role to central bank money. As markets become increasingly tokenised, the EU should recognise tokenised commercial bank deposits as a core settlement asset within the future digital financial system (in line with the objectives set out under the EU DLT Pilot Regime to allow for innovation in settlement assets). Tokenised deposits can combine rapid transfers and programmability with the strengths of existing payments systems (liquidity, integration with established payment/settlement infrastructure, robust KYC/AML controls, and widespread institutional usage). Tokenisation also enables synchronised settlement, reducing operational complexity, settlement risk, liquidity costs and collateral inefficiencies created by separate cash and securities infrastructures.

We consider that the potential of tokenised deposits largely resides in wholesale and institutional use cases rather than in retail payments. For person-to-person and point-of-interaction retail payments, existing infrastructures already provide efficient and widely adopted solutions, limiting the benefits of tokenised deposits. By contrast, tokenised deposits are highly relevant for capital markets, treasury and liquidity management activities, where programmability, atomic settlement, 24/7 availability and integration with tokenised assets can generate meaningful operational and risk-management benefits. Their ability to support programmable Delivery-versus-Payment (DvP) settlement, intraday liquidity optimisation, cash pooling and on-chain collateral management positions them as a particularly valuable instrument for corporate and financial institution use cases.

While cross-border payments may also benefit from these capabilities, their full potential will depend on the evolution of interoperability frameworks, fungibility with central bank money, ability to support efficient settlement arrangements, and broader industry adoption.

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

We believe that the 1) settlement of tokenised securities and other financial instruments, and 2) treasury and liquidity management services for corporates and financial institutions provide the most potential benefits to EU markets, institutions, and users:

- **Treasury and liquidity management services for corporates and financial institutions** represent a particularly compelling opportunity because tokenised deposits can enhance the way liquidity is mobilized, monitored, and allocated across entities, accounts, and jurisdictions in a programmable way. Their 24/7 availability and programmability can support more efficient liquidity management processes, reducing operational frictions associated with cut-off times and fragmented infrastructures. In particular, cash pooling stands out as a high-potential use case, as tokenised deposits can enable real-time liquidity visibility, intraday liquidity mobilization, automated treasury workflows, and more flexible cross-border liquidity structures. These capabilities are especially valuable for multinational corporates operating across multiple time zones and currencies, where liquidity optimisation remains a key business challenge.
- **Settlement of tokenised securities and other financial instruments** is also a highly attractive use case for tokenised deposits as the cash leg for tokenised financial markets. As securities, repos and other activities increasingly move onto DLT-based infrastructures, tokenised deposits become a critical enabler of efficient on-chain settlement. Beyond the inherent benefits of DvP settlement, tokenised deposits can facilitate broader market transformation through programmability, real-time settlement, reduced operational complexity, improved transparency, and greater integration between cash and asset workflows. This positions tokenised deposits as a foundational component of future digital capital market infrastructures and a key enabler of next generation DLT-based post-trade processes.

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

A number of barriers stand in the way of the widespread development and uptake of tokenised deposits in the EU. In our view, the key barriers include:

- Clear interoperability standards across banks to facilitate interbank and cross-protocol transfers and fungibility
- Clarity on the legal and regulatory treatment of tokenised deposits as equivalent to traditional deposits
- Requisite need to modernise the legacy banking infrastructure to support 24/7 programmable settlement

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

To resolve any outstanding regulatory concerns on tokenised deposits, our preferred outcome would be for policymakers to provide greater legal and supervisory clarity confirming that tokenised deposits 1) remain subject to the existing banking framework, 2) should not be classified as crypto-assets under MiCA solely by virtue of their technological form, in line with the principle of technological neutrality, and 3) that no new dedicated regulatory regime is considered necessary.

In this context, further regulatory guidance may be appropriate to:

- clarify the eligibility of tokenised deposits for deposit insurance;
- ensure a consistent and technology-neutral application of DGS rules; and
- address specific operational aspects related to identification, record-keeping, and payout mechanisms.

A clear and harmonised framework would be essential to support confidence in tokenised deposits while ensuring consistency with the broader banking and prudential framework.

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

No, tokenised deposits do not raise any specific issues under the CRD/CRR framework. We strongly support the principle of technology neutrality to be followed. We view that tokenised deposits should remain subject to the existing prudential framework applicable to traditional bank deposits, provided their legal and economic substance remains unchanged.

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

As noted above, tokenisation does not alter the legal nature of a bank deposit. Tokenised deposits should therefore be subject to the same deposit protection framework as conventional deposits, with eligibility for DGS protection continuing to depend on the same underlying conditions.

4.6. Legal treatment of tokens

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

☒ Yes

☐ No

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

Scales used:

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

Issue	Significance of legal uncertainty	Urgency of regulatory action
Issuing a crypto-asset token in compliance with national law	2	2
Issuing a tokenised financial instrument in compliance with national law	5	5
Transferring ownership (acquisitions, dispositions, earmarking, etc.) over a token, including good faith acquisition / bona fide ownership	5	5
Recognising ownership in a token towards third-parties	5	5
Using tokens as collateral	5	5
Possibility to differentiate between native and non-native tokens in national law	3	4
Recognising tokens as objects of property	5	5
Rights of token holders in intermediated custody chains	4	4
Enforcement and exercise of rights arising from /over tokens or the underlying assets	4	4
Custody of tokens	4	4
Treatment of tokens in insolvency proceedings including intermediary risk	4	4
Other...		

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

We support legal certainty to be significantly improved on the private law treatment of issuance, holding and transfers of tokens, under national law. While several Member States have taken steps towards recognising the legal effects of DLT-based financial instruments (e.g. Spain's LMVSI, French private law, and Germany's eWpG), legal uncertainty has not been fully eliminated. For crypto-assets, while MiCA provides regulatory certainty, it cannot fully resolve private law issues in the absence of a common approach across Member State laws.

The most significant outstanding issues concern: the issuance of tokenised financial instruments in compliance with national law; transfer of ownership, including good faith acquisition; recognition and opposability of rights against third parties; the use of tokens as collateral; rights of holders within intermediated custody chains; custody and control arrangements; enforcement of rights; and the treatment of tokens in insolvency. We support urgent action to address these issues.

We also acknowledge that the application of DLT is not universally consistent or uniformly defined and may result in varying tokenisation structures. For native tokens, the key outstanding legal issue appears to be whether the control of the token can generate proprietary effects. For non-native tokens, further legal analysis may therefore be required to distinguish clearly between the treatment of native tokens and non-native or representative tokens. In our view, legal analysis should seek to establish clear mechanisms to recognise: (a) a financial instrument natively issued on DLT; (b) a technical token used to circulate / represent another asset without itself being the legal asset; and (c) a representative certificate.

In addition, the recognition of token holder rights should not automatically lead to broader issuer obligations. Depending on the nature and legal structure of the token, issuer obligations should arise from the applicable token terms, statutory rights, sectoral law, custody or service arrangements, or other applicable legal basis, rather than from mere technical holding or control of a token.

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

- ☒ Yes
☐ No

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

- **Security registration:** EU law should recognise the legal effect of recording, holding and transferring tokens on a DLT register. This should cover entitlement or ownership (in both intermediate and custody structures), good faith acquisition, transfer, enforceability to third parties, business continuity and operational resilience, insolvency treatment, and the exercise of rights, as well as to facilitate those instruments' listing, on-venue trading, and collateral eligibility across Member States. The approach should be functional rather than a full codification of ownership. EU law could recognise defined effects of DLT records while leaving the underlying asset, issuer obligations and sectoral rights to the applicable legal regime.
- **Targeted pan-European regime:** EU law should introduce a pan-European regime via a directly applicable regulation for DLT-based assets; this should create an EU-level baseline for interoperability, private law, and conflict-of-law, whilst preserving and building on existing national regimes (e.g. Spain's LMVSI/ERIR framework, France's DEEP regime and Germany's eWpG). The conflict-of-law rules should cover the proprietary aspects of tokens, and determine the law applicable to situs, forum, ownership, transfer, collateral and third-party effects in a cross-border environment.
- **Clearer legal typology of tokens and their treatment:** EU law should more clearly distinguish between native on-chain assets and tokens representing rights over off-chain assets. As the

issues pertaining to each category of tokens may diverge, different legal solutions are warranted.

In addition, other issues requiring clarification include: (i) reconciliation between on-chain and off-chain records; (ii) token wrappers, (iii) forks, protocol changes and governance interventions; (iv) loss or compromise of private keys, (v) multi-key solutions, including key shards and multi-sig wallets. These issues should be addressed with moderate urgency where they impact entitlement, priority, custody, collateral or insolvency outcomes. Separately, the treatment of DeFi and use of smart contracts may also warrant clarification.

Question 81.2 If you believe there is a lack of legal certainty regarding tokens, can legal certainty (ownership or entitlement, transfer and enforceability of rights recorded as tokens) be achieved under EU law in one of the following manners?

Rank the below possible measures from 1 to 5.

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

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

Please explain your response and provide examples, in particular from national law. Where you favour full or partial harmonisation or the introduction of a conflict-of-law 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.

In summary, we support a combination of: greater (partial) harmonisation of private law treatment of tokens, a specific EU conflict-of-law rule, and a functional pan-European regime on the legal effects of DLT entries would be both more realistic and more effective.

We recognise the complexity of harmonising national legal frameworks, given the continued diversity of Member States' company law, securities law and insolvency laws. However, we view that greater harmonisation of the private law treatment of tokens could help reduce fragmentation across Member States and provide greater legal certainty for cross-border activities, particularly regarding ownership, transfer, third-party effects and insolvency. This should not undermine effective reforms that have already been implemented by current national regimes, but rather seek to find alignment and/or benchmarking of rules and standards.

We support the creation of a new targeted EU regulation on a pan-European regime of DLT-based assets as our preferred route forward. This can be a targeted EU functional regime for "digital entitlement" and DLT-based records, combined with a dedicated conflict-of-laws rule. This should not be a full EU civil code for tokens, but a limited regime covering the matters in scope of the Unidroit Principles, including the following matters: applicable law, control, identification of a person in control of a digital asset, innocent acquisition, rights of a transferee, custody, duties owed by a custodian to its client, innocent client, insolvency of a custodian and creditor claims, secured transactions, control as a method of achieving third-party effectiveness, priority of security rights, enforcement of security rights, procedural law including enforcement, and the effect of insolvency on proprietary rights in digital assets.

This can help harmonise EU issuances going forward, without undermining existing well-established national and EU securities law concepts.

Question 82. There are different “ownership models” that could be used to increase legal certainty over tokens. Please indicate maximum two models listed below that you think EU law could apply if it were to improve the legal certainty of tokens in the EU.

Ownership model	Application
Model 1: The token is the asset by law, the law recognises a ledger-based asset and the ownership rights are constituted directly by the ledger entry.	
Model 2: The token is the asset by law, where the law recognises that e.g. securities (dematerialised or physical) can be replaced by an entry into a DLT register and by this “replacing” (immobilisation) of the securities the function of the initial security is substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.	
Model 3: Token is the asset by law. In this case the law does not actively regulate legal aspects such as what property is or how transfer of ownership occurs, etc. but instructs on the legal consequences of entries in a DLT register (this is often called a functional approach). The law could at EU level stipulate who may exercise rights, i.e. the person recorded in the DLT register as holder of a tokenised asset, that these rights have full third-party effect and protects from competing claims. This also creates legal certainty for collateral use. The EU law would create a uniform rule of “digital entitlement” that functions across all Member States’ property law structures.	X
Model 4: The token is the legal carrier of rights associated with a related (often off-chain) asset. The law defines tokens as legal objects that do not create new rights, but can –like a “container” – represent various kinds of rights, such as membership rights, ownership, intellectual property rights, usage rights or rights of lien, etc.. The token would represent the rights stemming from the underlying assets and the law would ensure that the transfer of a token on the ledger legally transfers ownership of the rights stemming from the underlying asset.	X
Model 5: Any other legal ownership structures, for example based on the approaches taken by different countries, including France, Germany, Luxembourg or adopted in other jurisdictions or internationally, that could be implemented in EU law.	

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

- What would be the legal interoperability of any such EU level measure with national private laws of Member States, or at least laws of the Member State that you are familiar with?
- Is it preferable to establish constitutive rules of ownership based on the asset being recorded on chain or functional rules regulating the effects of recording an asset on chain?
- Are the different ownership models better suited for native or non-native tokens?
- Can the same ownership model be implemented for all types of tokens (crypto-assets and DLT financial instruments) and if not, what would need to be different depending on the type of the token?

We view that two models that appear most appropriate are **Model 3** and **Model 4**:

- Model 3** is the most suitable basis for native on-chain assets. It allows EU law to define the legal effects of a DLT record in a functional way, without requiring a complete and uniform redefinition of property law in all Member States. This model is best suited to ensuring legal certainty as to entitlement, transfer, third-party effects and the use of tokens as collateral. This model also creates a high level of interoperability between Member States. For avoidance of doubt, while the model stipulates that it would not actively regulate how transfer of ownership occurs, it is imperative for certain collateral arrangements under EU law that there is legal certainty that updates in the distributed ledger are capable of causing the intended legal effects, including on transfer of ownership.
- Model 4** is better suited to non-native or representative tokens that are freely transferable (i.e. not representing the books and records of custodian / depositary that has contractually agreed to hold the underlying assets for the benefit of the persons identified in their books and records). Where a token represents rights over an underlying off-chain asset, the law should define the token as the legal carrier of those rights and ensure that transfers on the ledger produce the

intended legal effects in relation to the underlying asset. The underlying asset should continue to be governed by the relevant law: securities law for financial instruments, banking law for deposits, e-money law for EMTs, fund law for fund interests, corporate law for membership rights and general private law for other assets. The EU rule should clarify that, where the legal requirements for tokenisation are met, transfer of the token transfers or evidences the related right with the agreed legal effects. This model should include safeguards to avoid duplication or mismatch between on-chain and off-chain records.

In detail, with regards to the sub-questions:

- **Legal interoperability with national private laws:** a functional EU approach would be more interoperable with national private laws than a fully constitutive and uniform ownership regime. It would preserve national legal structures while ensuring that the legal consequences of DLT recording are recognised across the Union.
- **Constitutive rules or functional rules:** functional rules are preferable. EU law should primarily regulate the legal effects of recording an asset on-chain, rather than attempting to create a single abstract and constitutive concept of ownership for all tokens in all Member States.
- **Suitability for native or non-native tokens:** we consider Model 3 to be better suited to native tokens, while Model 4 is better suited for non-native tokens that are freely transferable.
- **Same ownership model for all types of tokens:** No, we do not consider it appropriate to apply the same ownership automatically apply to all tokens. We support differentiating between native tokens representing financial instruments and non-native tokens representing financial instruments that are freely transferable vs non-native tokens where the underlying property is held by a centralised entity. EU law should therefore allow for differentiated treatment depending on the type of token and the legal structure used.

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

We view that the key difference across Member States concerns the legal mechanism used to link tokens or DLT records to private-law effects. The same token structure may produce different effects depending on the governing law and Member State concerned, and therefore a baseline level of targeted EU-level harmonisation is preferable. As examples, some Member States have adopted specific statutory regimes: Spain's LMVSI/ERIR framework provides rules for DLT-based negotiable securities, including registration, transfer, third-party effects, good-faith acquisition, encumbrances and certain insolvency protections. France permits certain financial securities to be represented and transmitted through a shared electronic recording device. Germany's eWpG recognises electronic securities and crypto-securities registers. Luxembourg has also adapted its dematerialised securities framework to recognise secured electronic registration mechanisms, including distributed ledgers. Other Member States rely more heavily on general property, contract, securities, custody and insolvency law.

Other key (related) differences between Member States concern the following areas:

- The legal qualification of tokens: most jurisdictions adopt a functional approach and treat a token as a financial instrument when it confers rights equivalent to those of traditional securities. However, there is no harmonised EU definition of a "security token", and some jurisdictions have created specific domestic categories while others have not.
- The validity of native on-chain issuance
- The treatment of transfers: in most continental systems, the legally decisive event remains the entry in the relevant register, rather than the mere transfer of a private key. This is essential for ownership, third-party effects, collateral and insolvency.
- The treatment of intermediaries, custody models, good faith acquisition and the impact of insolvency still varies significantly across Member States. These differences are a major source of legal uncertainty for cross-border DLT-based markets. For issuance of both equity and debt securities, Member States typically include a number of formalities under local law which prevent the issuance of digital securities. To increase legal certainty in the ability to create

native financial instruments, it would be necessary to either allow for such formalities to be met using distributed ledger technology or exempt DLT issuances from such formalities.

4.7. Questions on conflicts of law

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

☒ Yes

☐ No

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

We view that the current EU conflict-of-law rules are not sufficient because they only address limited categories of situations and do not cover all token structures. Regulation (EC) No 593/2008 (“Rome I”) applies to contractual obligations and is primarily based on party autonomy, subject to overriding mandatory provisions, consumer protection and public policy limitations. Regulation (EC) No 864/2007 (“Rome II”) applies to non-contractual obligations. These instruments are important and technology neutral, but they do not provide a comprehensive solution for proprietary questions such as ownership, entitlement, transfer, good-faith acquisition, third-party effectiveness, priority of security interests or pre insolvency proprietary rights. Sectoral instruments such as the Financial Collateral Directive and the Settlement Finality Directive contain targeted rules for financial collateral, book-entry securities and designated systems, but they do not provide a general solution for proprietary aspects of all tokens.

Given the above, EU law today does not provide a sufficiently clear and comprehensive solution for determining the law applicable to ownership, transfer, collateral and proprietary effects in relation to tokens, especially outside the existing scope of the Settlement Finality and Financial Collateral frameworks.

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

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

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

Please explain your response and provide examples. In answering this question, please consider if the suggested scope of the conflict of law rule in your view is the right one, and whether there are aspects missing.

We support a conflict of law rule focused on the proprietary aspects of tokens: entitlement, acquisition, disposition, third-party effects, good-faith acquisition, collateral priority and pre-insolvency treatment. It should not replace sectoral regulatory rules under MiCA, MiFID II, CSDR, the DLT Pilot Regime, the Financial Collateral Directive or the Settlement Finality Directive.

A dedicated rule is necessary because tokens do not fit easily within traditional connecting factors such as physical location of an asset or location of a securities account. It would also reduce legal fragmentation where the issuer, holder, custodian, DLT system, validator infrastructure and collateral taker are located in different jurisdictions. The rule should be transparent, predictable and resistant to manipulation, with safeguards against retroactive changes to the applicable law.

We also support differentiating between native and non-native tokens. In particular, for non-native tokens, there is a strong argument to find connecting factors such as location of the property and location of the system as guiding the conflict of law analysis. For native tokens, we would agree that traditional connecting factors such as physical location or location of the securities account may not be that helpful where they are held in self-custody wallets. However, where the native token is held by a custodian, we would argue that the location of the token should be linked to the location of the service provision by the relevant custodian.

The approach should be a waterfall, rather than being reliant on a single connecting factor. In terms of the most relevant factors, we take the view that these should be based primarily on the jurisdiction in which the register, DLT-based system, and/or issuer operate.

Other factors may be relevant only in limited circumstances. The least relevant factors are those based solely on technology providers, system administrators with no direct legal role in the holding structure, master key holders, or a law expressed only in the token itself. These connecting factors are generally less reliable, too technical and detached from the legal reality of holding and transferring rights. The location of the DLT system operator and the law of the relevant operating authority or administrator may be useful for permissioned or administered systems, but should not displace token terms, system rules, issuer nexus or supervised register rules. Technology provider location and the residence of a master keyholder should be given the lowest weight. They may be difficult for market participants to identify, can change over time, may not correspond to the legal or economic reality of the token and could create incentives for manipulation or regulatory arbitrage.

Question 85. Are there any other issues relating to legal certainty which are not mentioned above?

Yes, we support further clarifications in the following areas -

- Limiting the risk of double representation / existence of the same asset, where traditional and tokenised forms coexist without a sufficiently clear rule on priority, conversion, blocking or legal exclusivity. This risk should be expressly addressed through the legal framework.
- Enhancing the legal distinction between the register conferring rights and the administration of the means of access to those rights. In DLT environments, legal certainty requires a clearer distinction between the constitutive role of the register and the operational role of intermediaries or administrators managing access, instructions and corporate actions.
- Enhancing the continuity of rights in the event of migration between technical environments, including conversion, bridge mechanisms, or changes in the recording system. Legal certainty requires a clearer framework for such transitions, especially where the DLT-based asset is expected to retain continuity of legal identity.
- Clarifying the legal treatment in case of insolvency of participants and/or intermediaries, especially where arrangements operate outside a formally recognised finality framework.

4.8. Final open question

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

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