

EBA/RTS/2024/08

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Final report

Draft Regulatory Technical Standards on adjustment of own funds requirements and stress testing of issuers of asset-referenced tokens and of e-money tokens subject to such requirements

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1. Executive Summary

Pursuant to paragraph 1 of Article 35 of Regulation (EU) 2023/1114 issuers of asset-referenced tokens are subject to own funds requirements, and in accordance with paragraph 3 of the same article competent authorities, following an assessment based on specific criteria, will be able to increase the amount of own funds requirements of an issuer of asset-referenced tokens that is deemed to have a higher degree of risk.

Moreover, in accordance with paragraph 5 of Regulation (EU) 2023/1114, issuers of asset-referenced tokens are required to conduct stress testing based on plausible financial stress scenarios, and competent authorities will be able to increase the amount of own funds requirements of an issuer of asset-referenced tokens having regard to the risk outlook and stress testing results.

The mentioned requirements apply as well to electronic money institutions issuing e-money tokens that are significant by virtue of Article 58(1), point b, of Regulation (EU) 2023/1114 and can be expanded to e-money institutions issuing e-money tokens that are not significant if the competent authority of the home Member State requires it so following Article 58(2) of that Regulation.

According to the mandate in Article 35(6) of Regulation (EU) 2023/1114, the EBA has developed these Regulatory Technical Standards (RTS) specifying the procedure and timeframe for an issuer of an asset-referenced token to adjust to higher own funds requirements when this is deemed to have a higher degree of risk, the criteria for competent authorities to follow during the assessment of such higher degree of risk and the minimum requirements for the design of the stress testing programmes.

Given the novelty of asset-referenced tokens and their issuers, the fact no universal risks assessment framework exists and the rapid developments in this sector, these RTS have been developed with a certain degree of flexibility for competent authorities while keeping the main overall objective of harmonisation of rules and convergence of supervisory practices.

The EBA followed a more prescriptive approach when specifying the procedure for issuers of asset-referenced tokens to submit a compliance plan, while provided more flexibility to competent authorities on the timeframe to grant an issuer of an asset-referenced token to adjust to higher own funds requirements (up to 6 months) and on the assessment of higher degree of risk criteria (based on 3 criteria).

These draft RTS also provide general rules to be followed by issuers of asset-referenced tokens for the design, implementation and use of stress testing programmes and methodology. These rules will ensure a minimum level of consistency between issuers of asset-referenced tokens, while ensuring they are proportional to their size, complexity, and business model.

For issuers of asset-referenced tokens to understand and model all risks they are exposed to, including any possible interlinkages between the crypto-ecosystem and the traditional financial sector stemming from reserve assets both a solvency and liquidity risk of issuers of asset-referenced tokens stress test is necessary as a minimum, and to ensure that the results of the stress test remain relevant, a minimum frequency of testing required. Furthermore, to assure that issuers of asset-referenced tokens have sound risk management culture and practices rules on internal governance and IT data infrastructure have been developed as well.

Next steps

The draft regulatory technical standards will be submitted to the Commission for endorsement, following which they will be subject to scrutiny by the European Parliament and the Council, before being published in the Official Journal of the European Union.

2. Background and rationale

1. Issuers of asset-referenced tokens issue those tokens that are a type of crypto-asset that is not an electronic money token and that purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies. To address the risks to financial stability of the wider financial system, issuers of asset-referenced tokens are subject to own funds requirements¹. Those requirements should be proportionate to the issuance size of the asset-referenced tokens and therefore are to be calculated as a percentage of the reserve of assets that back the value of the asset-referenced tokens.
2. Furthermore, to ensure consumer protection, issuers of asset-referenced tokens should also comply with certain prudential requirements. As specified in recital 80 of Regulation (EU) 2023/1114, those prudential requirements are set as a fixed amount or in proportion to the fixed overheads of crypto-asset service providers of the preceding year, depending on the types of services they provide.
3. Article 35(1) of Regulation (EU) 2023/1114 introduces the own funds requirement for issuers of asset-referenced tokens. Issuers of asset-referenced tokens, shall at all times have own funds equal to an amount of at least the highest of:
 - a. EUR 350000;
 - b. 2% of the average amount of the reserve assets (referred to in Article 36);
 - c. A quarter of the fixed overhead of the preceding year.
4. The 2% percentage shall be set at 3% of the average amount of the reserve assets for issuers of significant asset-referenced tokens according to Article 45(5) of Regulation (EU) 2023/1114.
5. Article 35(3) of Regulation (EU) 2023/1114 specifies that competent authorities will be able to increase the amount of own fund requirements of an issuer of asset-referenced tokens by up to 20%, above the requirements set in Article 35(1)(b) of Regulation (EU) 2023/1114, in case an assessment of an issuer of asset-referenced tokens indicates a higher degree of risk in any of the following points:
 - a. the evaluation of the risk-management processes and internal control mechanisms of the issuer of the asset-referenced token as referred to in Article 34 (1), (8) and (10);

¹ Credit institutions authorised under Directive 2013/36/EU issuing asset-reference tokens, including significant asset-referenced tokens, are not subject to these own funds requirements.

- b. the quality and volatility of the reserve of assets referred to in Article 36;
 - c. the types of rights granted by the issuer of the asset-referenced token to holders of the asset-referenced token in accordance with Article 39;
 - d. where the reserve of assets includes investments, the risks posed by the investment policy on the reserve of assets;
 - e. the aggregate value and number of transactions settled in the asset-referenced token;
 - f. the importance of the markets on which the asset-referenced token is offered and marketed;
 - g. where applicable, the market capitalisation of the asset-referenced token.
6. Issuers of asset-referenced tokens are required to conduct on a regular basis stress-testing, under Article 35(5) of Regulation (EU) 2023/1114 considering certain scenarios and parameters and based on the outcome competent authorities shall in certain circumstances require issuers of asset-referenced tokens to hold an amount of own funds which is between 20% and 40% higher than the amount resulting from the application of Article 35(1)(b) of Regulation (EU) 2023/1114.
7. The EBA is mandated under Article 35(6) of Regulation (EU) 2023/1114, in close cooperation with ESMA and the ECB, to develop draft regulatory technical standards further specifying:
- a. the procedure and timeframe for an issuer of an asset-referenced token to adjust to higher own funds requirements as set out in paragraph 3 of Article 35;
 - b. the criteria for requiring a higher amount of own funds as set out in paragraph 3 of Article 35;
 - c. the minimum requirements for the design of stress testing programmes, taking into account the size, complexity and nature of the asset-referenced token, including but not limited to: (i) the types of stress testing and their main objectives and applications; (ii) the frequency of the different stress testing exercises; (iii) the internal governance arrangements; (iv) the relevant data infrastructure; (v) the methodology and the plausibility of assumptions; (vi) the application of the proportionality principle to all of the minimum requirements, whether quantitative or qualitative; and (vii) the minimum periodicity of the stress tests and the common reference parameters of the stress test scenarios.
8. Articles 35(2), (3) and (5) and Article 45(5) of Regulation (EU) 2023/1114 also apply to issuers of e-money tokens (either significant or, where decided, non-significant), as per Articles 58(1),

point (b), and (2) of that Regulation. Therefore, these RTS should also be relevant and applicable for those.

9. The main purpose of these draft RTS is to specify how and when competent authorities shall assess whether to require an issuer of asset-referenced tokens to increase the own funds amount by providing criteria on how to assess the possible 'higher risk' of an issuer of asset-referenced tokens.
10. These draft RTS also provide the procedure for competent authorities to determine the specific period of time considered appropriate for an issuer of asset-referenced tokens to increase the own funds amount to the new requirements and the measures to be taken to ensure the timely compliance thereof.
11. Issuers of asset-referenced tokens, need to ensure robust and prudent reserve asset management and operational requirements to instill confidence, to ensure the stability of the peg and avoid a run on the token with possible contagion to the financial sector. Failures of issuers of asset-referenced tokens could result in large-scale redemption and trigger a fire-sale of their reserve assets as well as deposit withdrawal, potentially causing significant market disruptions and systemic risks in the broader financial system.
12. As specified in Article 17(4), in line with recitals 44 and 71, of Regulation (EU) 2023/1114, credit institutions that act as issuers of asset-referenced tokens or e-money tokens are not subject to own funds requirements. Therefore, these RTS for additional own funds requirements are not applicable to credit institutions.
13. In case competent authorities requires additional own funds due to the assessment of a higher degree of risk in accordance with Articles 35(3) of Regulation (EU) 2023/1114 and at the same time requires additional own funds due to the stress test results and the risk outlook in accordance with 35(5) of Regulation (EU) 2023/1114, the requirements are without prejudice of each other as such both requirements should be applied cumulatively.
14. For the avoidance of doubt, these RTS are already applicable during the authorisation phase of an issuer as specified in the RTS on information for application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens under Article 18(6) of Regulation (EU) 2023/1114 and therefore it is possible for competent authorities to require additional own funds from the moment of the first issuance of tokens.
15. Separately for this mandate, the EBA is also mandated to develop a draft RTS under Article 45(7)(c) of Regulation (EU) 2023/1114 on the procedure and timeframe for issuers of significant asset-referenced tokens to adjust their own funds amount of that Regulation from 2% to 3% of the reserve assets after an issuer becomes issuer of significant asset-referenced tokens. Due to the similarities with the mandate under Article 35(6) that Regulation and to ensure consistency and to reduce the operational burden to issuers and competent authorities, it is the intention to align the procedures as much as possible, where possible.

2.1 Own funds requirements of issuers of asset-referenced tokens

2.1.1 Own funds and quality of capital

16. Article 35(1) of Regulation (EU) 2023/1114 combines 3 different aspects of capital, initial capital to start up a business, a going concern capital by a % based on the size of the business (reserve assets) and a minimum requirement based on fixed overhead costs to cover for any potential consumer protection issues. The going concern capital can be adjusted upwards by a competent authority under certain conditions.
17. Furthermore, the composition/quality of own funds shall consist of the Common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013, after the corresponding deductions, in accordance with Article 35(2) of Regulation (EU) 2023/1114.
18. The mandate is about adjusting capital upwards mainly due to risk-management processes and internal control mechanisms issues, risks in the investment portfolio, or due to possible financial stability issues related to the size of the issuer of asset-referenced tokens. This is similar to a Pillar 2 requirement under the banking regulation.
19. The additional own funds requirements coming from the application of Article 35(3) or Article 35(5) of Regulation (EU) 2023/1114 should stay in place until the competent authority finds that the higher degree of risk does not require anymore a higher level of own funds.

2.1.2 'Higher' own funds requirements

20. Article 35(3) of Regulation (EU) 2023/1114 specifies that competent authorities can increase the amount of own funds requirements of an issuer of asset-referenced tokens by up to 20%, in accordance with Article 35(1)(b) of that Regulation, in case an assessment of an asset-referenced token issuer indicates a higher degree of risk. Furthermore, Article 35(5) of that Regulation specifies that competent authorities considering severe but plausible financial stress scenarios and parameters and based on the outcome of the stress testing conducted by the issuer of asset-referenced tokens shall in certain circumstances, also considering the overall risk outlook, require issuers of asset-referenced tokens to hold an amount of own funds which is between 20% and 40% higher than the amount resulting from the application of Article 35(1)(b) of that Regulation.
21. Article 35(6)(a) of Regulation (EU) 2023/1114 mandates the EBA to further specify: (a) the procedure and timeframe for an issuer of an asset-referenced token with higher degree of risk to adjust to higher own funds requirements and (b) the criteria used during the assessment of a higher degree of risk that leads to require a higher amount of own funds.

2.1.3 Procedure and timeframe

22. As required by Article 34(1) of Regulation (EU) 2023/1114 issuers of asset-referenced tokens shall have robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which they are or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures. Issuers of asset-referenced tokens should at all times take measures to reduce the risks to which they are exposed. In case these measures have insufficient effect, it should be considered to require additional own funds.
23. Notwithstanding the above, the competent authority may determine the timeframe for an issuer of asset-referenced tokens to adjust to higher own funds requirements when an issuer of asset-referenced tokens is considered to have a higher degree of risk as referred to in Article 35(3) of Regulation (EU) 2023/1114.
24. Based on the assessment performed applying the criteria mentioned in this section, the competent authority should be in the position to determine a timeframe considered appropriate for an issuer of asset-referenced tokens to adjust to higher own funds requirements. In particular, the competent authority should decide whether the adjustment should be completed automatically within 6 months, however when the higher degree of risk indicates that this can have a material impact on the financial situation of the issuer of asset-referenced tokens or on the financial stability of the wider financial system, or is associated with the issuer of asset-referenced tokens' governance or business model or whether it should grant the issuer of asset-referenced tokens a shorter period.
25. Competent authorities should take into account the issuer of asset-referenced tokens' financial situation and consider on a case-by-case basis whether the timeframe to implement certain measures to adjust to higher own funds requirements should be corrected upwards due to the potential impact on the financial situation of the issuer of asset-referenced tokens or due to potential financial stability implications of not adjusting own fund requirements fast enough. As a principle, increase in own funds amounts should be completed with a short timeframe, but in any case, the maximum amount of time competent authorities can grant to issuers of asset-referenced tokens to implement specific measures is 6 months. For example, an issuer of asset-referenced tokens with a less favourable financial situation might need more time to implement certain measures to comply with the requirements or otherwise risks a worsening of the financial situation itself.
26. The same considerations apply when the assessment of an issuer of asset-referenced tokens' reserve of assets reveals that these are not highly exposed to concentration risk, as defined in Article 36 of Regulation (EU) 2023/1114. Indeed, in this case the competent authority might allow a longer period to adjust the level of own funds, up to 6 months, since this could entail that the issuer of asset-referenced tokens has incorporated a diversified risk management strategy as an established practice.

27. It is incumbent upon issuers of asset-referenced tokens to present to the competent authority a set of measures to ensure the timely adjustment to the higher own funds requirements. Such measures should be to the discretion of the competent authority with due regard to the assessment performed in accordance with Article 35(3) of Regulation (EU) 2023/1114. In assessing the appropriateness of the measures, the competent authority should consider whether these would address for the higher degree of risk identified.
28. The issuer of asset-referenced tokens shall provide the competent authority with a plan to compliance with Article 35(3) of Regulation (EU) 2023/1114. The set of measures included in the plan shall include time-bound steps and procedures to carry out the increase within the set timeframe and ensure that the funds consist of the Common Equity Tier 1 items and instruments as referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full pursuant to Article 36 of that Regulation, without the application of the threshold exemptions referred to in Article 46(4) and Article 48 of that Regulation. In any case, the issuer of asset-referenced tokens should always strive to identify and address any foreseeable risks or obstacle to the effective and timely execution of the measures. If a period longer than 3 months is given to implement the plan, the issuer of asset-referenced tokens shall update competent authorities, at least, on a monthly basis on the plan's implementation progress.
29. The competent authority should consider whether the issuer of asset-referenced tokens should employ further strategies to increase the own funds, considerations should also be given to whether this could be achieved by means of issuing new capital items or retaining profits.
30. In order to ensure the effective and timely increase of own funds, the competent authority should closely monitor the implementation of the plan by the issuer of asset-referenced tokens. Whenever necessary, the competent authority should be able to request additional information, and in case the measures do not progress as initially planned, an alternative course of action might be required.
31. When the requirement to increase the own funds comes from lack of internal control and inadequate risk management processes, the competent authority should assess those processes and require specific measures to improve them, as well as to require the issuer of asset-referenced tokens to perform an internal or external audit regarding its internal control and risk management processes. Moreover, competent authorities could perform targeted on-site examinations.
32. In defining and implementing the plan to increase the own funds, issuers of asset-referenced tokens should consider that Article 34(3) of Regulation (EU) 2023/1114 requires the management body of the issuer of asset-referenced tokens to assess and periodically review the effectiveness of the policy arrangements and procedures and take appropriate measures to address any deficiencies in that respect. Furthermore, it is the role of the issuer of asset-referenced tokens' management body, or internal audit committee or department, where established, to monitor the effectiveness of the issuer of asset-referenced tokens' internal quality control and risk management systems and, where applicable, its internal audit function.

33. Furthermore, the management body of an issuer of asset-referenced tokens should oversee the implementation of the compliance plan, which should be communicated to all staff members. Issuers of asset-referenced tokens should set up a process to regularly assess changes in the law and regulations applicable to its activities. The compliance function, where established, should advise the management body on measures to be taken to ensure compliance with applicable laws, rules, regulations and standards, and should assess the possible impact of any changes in the legal or regulatory environment on the issuer of asset-referenced tokens' activities and compliance framework.

2.1.4 Criteria

34. Given the novelty of issuers of asset-referenced tokens and the tokens themselves, no universal assessment framework exists. This makes it difficult for competent authorities to evaluate the risks of an issuer of asset-referenced tokens, it is therefore crucial that competent authorities have the flexibility to increase the own funds requirements of issuers of asset-referenced tokens, if they observe a higher degree of risk. The higher degree of risk criteria specified in Article 3 of these RTS should guide competent authorities in their decision and ensure a harmonised approach across competent authorities in the EU.

35. Competent authorities should perform the evaluation on a case-by-case basis following a broad assessment of all the criteria as specified in this Regulation when deciding if an increase in own funds requirement is justified.

2.2 Stress-testing programmes

36. The significant increase in the size of asset-backed tokens has raised concerns about their potential impacts on the financial system. Concerns with these tokens could result in large-scale redemption and trigger a fire-sale of their reserve assets as well as deposit withdrawal, potentially causing significant market disruptions and systemic risks across the financial system.

37. Issuers of asset-referenced tokens need to ensure robust reserve asset management and compliance with operational requirements to instill confidence, ensure the stability of the peg and avoid a run on the token with possible contagion to the financial sector. Like money market funds (MMFs), reserve of assets of issuers of asset-referenced tokens needs to be liquid to allow users to redeem their tokens in fiat currency. Robust management of reserve assets underpins users' confidence in those tokens. A loss of confidence could trigger large-scale redemption requests – especially if there are limited redemption possibilities – leading to the liquidation of reserve assets with negative contagion effects on the financial system.

38. Article 35(5) of Regulation (EU) 2023/1114 envisages that issuers of asset-referenced tokens need to have in place and conduct a stress testing, on a regular basis. The stress testing should take into account severe but plausible financial stress scenarios, such as credit, liquidity, interest- and exchange rate shocks, market risk, and non-financial stress scenarios, such as operational risk related shocks.

39. Article 35(6)(c) of Regulation (EU) 2023/1114 further specifies that the EBA should set the minimum requirements for the design of stress testing programmes, taking into account the size, complexity and nature of the asset-referenced token issuer, including but not limited to (i) the types of stress testing and their main objectives and applications; (ii) the periodicity and the frequency of the different stress testing exercises; (iii) the internal governance arrangements; (iv) the relevant data infrastructure; (v) the methodology and the plausibility of assumptions; (vi) the application of the proportionality principle to all of the minimum requirements, whether quantitative or qualitative; and (vii) the minimum periodicity of the stress tests and the common reference parameters of the stress test scenarios.
40. Furthermore, these rules aim to achieve convergence of the practices followed by issuers of asset-referenced tokens for stress testing across the EU. They provide detailed standards to be complied with by issuers of asset-referenced tokens when designing and conducting a stress testing programme/framework.

3. Draft regulatory technical standards

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying adjustment of own funds requirement and minimum features of stress testing programmes of issuers of asset-referenced tokens or of e-money tokens subject to such requirements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/1114 on Markets in Crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and Directive (EU) 2019/1937², and in particular Article 35(6), third subparagraph, thereof,

Whereas:

- (1) When determining own funds requirements for issuers of asset-referenced tokens, competent authorities have been granted with the flexibility to adjust upwards the amount resulting from the application of Article 35 Regulation (EU) 2023/1114, paragraph 1, first subparagraph, point (b), which consists of 2% (or 3 % for significant tokens) of the average amount of the reserve of assets, when certain circumstances indicate higher risks. When assessing those circumstances for requiring higher own funds, the impact a failure of the tokens could have on financial stability should be considered, including large-scale redemptions, trigger of fire-sales (sale at extremely discounted prices due to financial distress) of reserve assets or deposit withdrawals, potentially causing significant market disruptions, possible negative consequences for funding, and systemic risks across the financial system.
- (2) Considering that requirements set out in Articles 35, points (2), (3) and (5) and Article 45(5) of Regulation (EU) 2023/1114 also apply to issuers of e-money tokens (either significant or, where decided, non-significant), as per Articles 58(1), point (b), and (2) of that Regulation, provisions specifying such requirements should also apply to issuers of e-money tokens that are subject to or may be required to comply with those requirements. Consequently, when this regulation refers to apply some of its provisions ‘where applicable’ to e-money institutions issuing e-money tokens, it is intended to cover those to which their competent authorities decided to apply such requirements in accordance with Article 58(2) of Regulation (EU) 2023/1114.

² (OJ L 150 9.6.2023, p. 40).

- (3) Given the novelty of asset-referenced and e-money tokens and their issuers, no universal risks assessment framework exists. This makes it difficult for competent authorities to evaluate the risks of and posed by those issuers. Therefore, when deciding if an increase in own funds requirement is justified, competent authorities should perform the evaluation on a case-by-case basis following a broad assessment of all the relevant criteria. Requiring a possible increase to the own funds requirements depends on issuer-specific circumstances, issuers of asset-referenced tokens and electronic money institutions issuing e-money tokens (subject to such own funds requirements) should always be adequately capitalised for the risks they face. All relevant historical and current information available should be used for the said broad assessment. Generally, increases in own funds requirements should only be requested when there is a higher degree of risk, which is not already covered, and the measures of the relevant issuer are insufficiently effective to reduce the risks.
- (4) In case a competent authority requires an increase in own funds requirements, the timeframe provided to comply with such increase should be as short as possible since a relevant issuer, applying a proper and effective risk management, should have foreseen and thus prevented this measure.
- (5) Where a competent authority concludes that the risks, including volatility, of a particular asset-referenced token or, where applicable, e-money token might lead to a significant deterioration of the financial situation of the relevant issuer or impact the financial stability, the competent authority should set a shorter timeframe (than in other cases) for the relevant issuer to increase the own funds.
- (6) To ensure that issuers of asset-referenced tokens and, where applicable, issuers of e-money tokens make sound risk management decisions, such issuers and their relevant competent authorities should understand the financial and operational risks that come with increased use of asset-referenced and e-money tokens. In addition, they should understand and consider interlinkages with ecosystem of issuers of tokens more broadly and inherent interconnectedness with the traditional financial sector stemming from reserves of assets held. Therefore, stress testing the solvency and liquidity risk of issuers is necessary.
- (7) The impact of the so called ‘run-risk’, whereby a sudden spike in redemption requests of the tokens, resulting in a fire sale of the reserve assets backing the tokens, should be analysed via liquidity stress-testing. It is, therefore, essential to specify minimum features of the liquidity stress-testing too, such as those related to governance, data infrastructure, risk categorisation and frequency.
- (8) To ensure that the results of the stress test remain relevant, the minimum frequency for solvency stress test should be at least, quarterly for issuers of significant asset-referenced and significant e-money tokens issued by electronic money institutions. Such frequency should be semi-annual for issuers of non-significant asset-referenced tokens and, where applicable, non-significant e-money tokens issued by electronic money institutions. Frequency for the liquidity stress test should be in any case at least monthly.
- (9) The stress testing should consider severe but plausible financial stress scenarios and non-financial stress scenarios, such as liquidity shocks, credit shocks, interest rate- and exchange shocks, redemption risk and operational and third party shocks and ensure that the internal governance arrangements and the relevant data infrastructure are in

place to allow issuers of asset-referenced tokens and, where applicable, of e-money tokens and competent authorities to understand the characteristics, quantify risks and gather evidence that such issuers are effectively allocating and mitigating risk on an ongoing basis.

- (10) As a guiding principle, the stress-testing programmes should follow the same business, same risks and controls, and therefore similar rules and approach as to credit institutions stress testing under Directive 2013/36/EU³. However, considering that the crypto-asset activities -provided by issuers of asset-referenced and e-money tokens other than credit institutions- and their risks are different to those of credit institutions it is necessary to group the crypto-activities into different risk categories for the purpose of the stress-testing. Furthermore, grouping the crypto-activities and risks ensures that issuers of the relevant tokens and competent authorities can identify all the functions, processes, and actors, along with their associated risks including any environmental, social, and governance factors, and identify red flags. These identifications should facilitate the design and assignment of specific risk scenarios presented in the different activities of the relevant issuer. The scenarios need to be well-defined to quantify their potential impact, the range of potential losses and the range of plausibility associated with the specific risk scenarios identified. Therefore, when identifying specific risks, the relevant issuer should specify the time horizon of the stress scenario, which should be three years for the solvency stress test and up to one year for the liquidity stress test, the type of asset under stress and the narrative of the stress scenario.
- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (12) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,⁴

³ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176 27.6.2013, p. 338).

⁴ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Procedure

1. Prior to finalising the determination referred to in Article 35 (3) of Regulation (EU) 2023/1114, competent authorities shall make available to the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens, a relevant draft thereof and take due account of any views expressed by such issuer.
2. The draft referred in paragraph 1 shall set out:
 - (a) the amount by which the own funds must be increased and the percentage higher than the amount of reserve of assets resulting from the application of Article 35, paragraph 1, first subparagraph, point (b) of Regulation (EU) 2023/1114;
 - (b) relevant reasoning as to the higher degree of risk;
 - (c) whether that higher degree of risk can have a material impact on the financial situation of the issuer or on the financial stability of the wider financial system;
 - (d) whether that higher degree of risk can be seen as not directly associated with the relevant issuer's governance or business model;
 - (e) the timeframe within which the relevant issuer shall increase its own funds in accordance with Article 2.
3. The issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens shall be provided with 25 working days within which it may express its views on any of the elements referred to in paragraph 2, points (a) to (e).
4. The competent authority shall notify the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens with the final determination of the elements set out in paragraph 2 (a) to (e).
5. Within 25 working days from receipt of the notification referred to in paragraph 4, the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens shall submit to the competent authority detailed plan on how its own funds will be increased within the timeframe set by the competent authority.
6. The plan referred to in paragraph 5 shall:

- (a) include time-bound steps, specific measures and procedures to carry out the increase within the set timeframe; and
 - (b) ensure that the own funds items and instruments that will be used to comply with the increased requirement fulfil entirely the conditions set out in Article 35, paragraph 2, of Regulation (EU) 2023/1114.
7. Where the timeframe, referred in Article 2, set for the completion of the increase of own funds is longer than three months, the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens shall update competent authorities on a monthly basis on the plan's implementation progress.
 8. The issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens shall inform the competent authority immediately in case any step or procedure cannot be achieved in a timely manner.
 9. Competent authorities shall closely monitor the implementation of the plan.
 10. Where a college referred to in Article 119(1) of Regulation (EU) 2023/1114 has been set up, the competent authority shall keep the European Banking Authority (EBA) informed of all the information referred to in paragraphs 2 to 9, including the draft and the final determination, the plan and its relevant updates.

Article 2

Timeframe

1. Without prejudice to paragraph 2, the competent authority shall set a timeframe for the issuer of asset-referenced tokens or, where applicable, of the e-money institution issuing e-money tokens to adjust to higher own fund requirements, set on the basis of the assessment by the competent authority referred to in Article 35(3) of Regulation (EU) 2023/1114, that cannot exceed six months from the notification of the final determination referred in paragraph 5 of Article 1.
2. Where, on the basis of the assessment by the competent authority referred to in Article 35 (3) of Regulation (EU) 2023/1114, the higher degree of risk can have a material impact on the financial stability of the wider financial system or of the issuer of asset-referenced tokens or, where applicable, of the e-money institution issuing e-money tokens, or it results from deficiencies in relevant issuer's governance or business model, the competent authority may set a timeframe shorter (than the six months referred to in paragraph 1) when this is justified by the materiality of the anticipated impact.

Article 3

Criteria

1. When making the determination referred to in Article 35 (3) of Regulation EU 2023/1114, the competent authority shall apply all of the following criteria:
 - (a) whether the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens is likely to breach the requirements referred to in Articles 34(1), (8) and (10), 36, to 39 of Regulation (EU) 2023/1114 within the following 12 months;
 - (b) whether at-all-times redemption at par value and market value is not ensured either in normal or in stressed market circumstances’;
 - (c) whether there is an increased risk of a significant deterioration of the value of the reserve assets or the financial situation of the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens or an increased risk arising from systems including the underlying distributed ledger and any trading platform, market infrastructure or payment system used for the issuance or the transfer of the token and from other third party crypto assets service providers such as custodians to which the tokens and/or reserve assets might rely on.
2. To apply the criteria referred to in paragraph 1, point (a), competent authorities shall assess whether there are potential deficiencies or weaknesses of the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens with regard to the application of the requirements set out in Article 34 and in Articles 36 to 39 of Regulation (EU) 2023/1114.

Article 4

Design of stress testing programme

1. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that their stress testing programme is workable and feasible, and that stress testing results inform decision-making at all appropriate management levels on all existing and potential risks having material impact on the financial situation of the issuer.
2. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall regularly assess their stress testing programme to determine its effectiveness, robustness and suitability to the features of the issuer itself and tokens issued and shall keep it updated. This assessment shall be made on at least an annual basis and shall fully reflect the external and internal conditions.
3. When assessing the design of the stress testing programme, issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall consider all the following elements:

- a) the effectiveness of the programme in meeting its intended purposes;
 - b) the need for improvements;
 - c) the identified risk factors, reasoning for and design of relevant scenarios, model assumptions and the sensitivity of results to these assumptions, as well as the role of expert judgement to ensure that it is accompanied by sound analysis;
 - d) the model performance, including its performance on out-of-sample data, such as data that were not used for model development;
 - e) how to incorporate possible solvency-liquidity adverse loops;
 - f) the adequacy of possible interlinkages between solvency stress tests and liquidity stress tests;
 - g) feedback received from competent authorities in the context of their supervisory or other stress tests;
 - h) the adequacy of the data infrastructure (systems implementation and data quality);
 - i) the appropriate level of involvement of senior management and the management body;
 - j) all assumptions including business and/or managerial assumptions, and management actions envisaged, based on the purpose, type and result of the stress testing, including an assessment of the feasibility of management actions in stress situations and a changing business environment; and
 - k) the adequacy and transparency of the relevant documentation.
4. The stress testing programme shall be appropriately documented for all types of stress tests carried out.
 5. The stress testing programme shall be challenged across the organisation, for instance by the risk committee and internal auditors. Business units not responsible for the design and application of the programme or non-involved external experts shall play a key role in the assessment of this process, taking into account the relevant expertise for specific subjects.
 6. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure, both for the initial design and for the assessment of the stress testing programme, that an effective dialogue has taken place with the involvement of experts from all business areas of the issuer and that the programme and its updates have been properly reviewed by the senior management and management body of the issuer, who are also responsible for monitoring its execution and oversight.

Article 5

Type of stress testing

1. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall, at least, implement a solvency stress test and a liquidity stress test.
2. The solvency stress test shall capture the impact of certain developments including macro or microeconomic scenarios, on the overall capital position of the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens, including on its minimum or additional own funds requirements, by means of projecting the issuers' capital resources and requirements, highlighting the issuer' vulnerabilities and assessing its capacity to absorb losses and the impact on its solvency positions.
3. The liquidity stress test shall capture the impact of certain developments including macro- or microeconomic scenarios, from a funding and market risk perspective and shocks to the liquidity of the reserve of assets and to the overall liquidity position of the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens, including to its minimum or additional requirements.
4. The specific design, complexity and level of detail of the stress test methodologies shall be appropriate to the issuer of asset-referenced tokens' or, where applicable, the electronic money institution issuing e-money tokens' nature, including redemption rights' nature, scale and size, as well as the complexity, concentration and composition of its reserve assets.

Article 6

Minimum periodicity and frequency of the different stress testing exercises

1. Minimum frequency for solvency stress test shall be, at least, quarterly for issuers of significant asset-referenced tokens and electronic money institutions issuing significant e-money tokens and semi-annual for issuers of non-significant asset-referenced tokens and, where applicable, electronic money institutions issuing non-significant e-money tokens.
2. Minimum frequency of liquidity stress test shall be, at least, on a monthly basis for all issuers of asset-referenced tokens and e-money institutions issuing significant e-money tokens and, where applicable, for electronic money institutions issuing non-significant e-money tokens.

Article 7

Internal governance arrangements under the stress testing exercises

1. The stress testing programme of the issuer of asset-referenced tokens or, where applicable, the electronic money institution issuing e-money tokens shall be adopted by its management body, which shall be responsible for its implementation in accordance with Regulation (EU) 2023/1114 and this Regulation.
2. The stress testing programme shall include an assessment as to whether the members of the management body collectively have sufficient knowledge, skills and experience to perform all of the following:
 - (a) fully understand the impact of stress events on the overall risk profile of the issuer;
 - (b) ensure that clear responsibilities and sufficient resources (such as skilled human resources and information technology systems) have been assigned and allocated for the execution of the stress tests;
 - (c) actively engage in discussions with staff involved in stress testing and with persons to whom tasks related to stress testing are outsourced;
 - (d) challenge key modelling assumptions, the scenario selection and the assumptions underlying the stress tests in general;
 - (e) decide on the necessary management actions and discuss them with the competent authorities.
3. The stress testing programme shall be designed in a way which allows stress tests to be executed in accordance with the relevant internal policies and procedures of the issuer.
4. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that all elements of the stress testing programme, including its assessment, are appropriately documented and regularly updated, where relevant, in the internal policies and procedures.
5. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that the stress testing programme design foresees an effective communication across business lines and management levels, with a view to raising awareness, improving risk culture and instigating discussions on existing and potential risks as well as on possible management actions.
6. The stress testing programme shall be designed as an integral part of an issuer's risk management framework. Stress tests shall be designed to support different business decisions and processes as well as strategic planning. The strategic decisions shall take into account the shortcomings, limitations and vulnerabilities identified during stress testing.
7. The outputs of stress tests shall be used as inputs to the process of establishing an issuer's risk appetite and limits and shall act as a planning tool to determine the effectiveness of new and existing business strategies and assess the possible impact on own funds and liquidity.

Article 8

Relevant data infrastructure for stress testing programmes

1. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that the stress testing programme is supported by an adequate and transparent data infrastructure.
2. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that their data infrastructure has the capacity to capture the extensive data needs of their stress testing programme and that they have in place mechanisms to ensure a continuous and consistent ability to conduct stress testing as planned in accordance with the programme.
3. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that the data infrastructure allows for both flexibility and appropriate levels of quality and control.
4. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall ensure that their data infrastructure is proportionate to their size, complexity, and risk and business profile, and allows for the performance of stress tests covering all material risks that the institution is exposed to.
5. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall devote sufficient human, financial and material resources to guarantee the effective development and maintenance of their data infrastructure, including information technology systems.

Article 9

Methodology, common reference parameters and the plausibility of assumptions

1. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall identify the following risks categories:
 - a. risks to the value, transferability, liquidity, accessibility or exchangeability of the asset-referenced tokens and reserve assets;
 - b. risks arising from systems, to which the asset-referenced relies, including the underlying distributed ledger or any other technology of the token and any trading platform, market infrastructure or payment system used for the issuance or the transfer of the asset-referenced tokens;
 - c. risks arising from the performance of contractual arrangements, which the relevant issuer has entered into with other issuers, CASPs, financial institutions or any other natural or legal person, for the issuance or transfer of the tokens or for the establishment, management, custody or investment of the reserve assets, including any arrangement whereby the issuer outsources tasks.
2. To assess the risks referred to in paragraph 1, issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall identify

specific risk scenarios using historical scenarios and/or hypothetical scenarios in relation to the different risk categories referred to in paragraph 1.

3. The specific risk scenarios referred to in paragraph 2 shall be well-defined and their potential impact shall be quantifiable.
4. When identifying specific risks, issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall specify a time horizon for 3 years for the risk events relating to the solvency stress test and up to 1 year for the liquidity stress test, the asset at risk and a precise description of the risk scenario.
5. Issuers of asset-referenced tokens or, where applicable, electronic money institutions issuing e-money tokens shall quantify or have approximate estimations of the severity and plausibility of the stress scenarios identified as well as the potential losses coming from those scenarios.

Article 10

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

[For the Commission
On behalf of the President
[Position]

4. Accompanying documents

4.1 Draft cost-benefit analysis / impact assessment

41. Following Article 10 of Regulation (EU) No 1093/2010 (EBA Regulation), the EBA shall analyse the potential costs and benefits of draft Regulatory Technical Standards. RTS developed by the EBA shall therefore be accompanied by an Impact Assessment (IA) that analyses 'the potential related costs and benefits'.
42. This analysis presents the IA of the main policy options discussed and assessed in the elaboration of the draft RTS on additional own funds requirements and stress testing, which the EBA is mandated to develop under Article 35(6) of Regulation (EU) 2023/1114⁵. Given the novelty of asset-referenced tokens and their issuers no universal risks assessment framework exists, it is difficult to evaluate the risks of and posed by issuers of asset-referenced tokens under the different policy options, therefore a more principle based approach has been used.

A. Problem identification

43. Issuers of asset-referenced tokens are required to hold a minimum amount of own funds, which can be increase based on the assessment of higher degree of risk conducted by the competent authority or on the results of the stress testing. During the assessment of the higher degree of risk the criteria that competent authorities need to consider and the higher amount of own funds that could require might change based on a series of features, such as the comprehensiveness of the assessment, the scope and frequency of the assessment, as well as the specific financial situation of the issuer of asset-referenced tokens.
44. On the other hand, the minimum requirements that the stress testing programmes should have as well as their minimum frequency should take into account the operational burden upon issuers of asset-referenced tokens when many types of stress tests are required, while at the same time ensuring the relevance of the results, the proportionality aspects when a minimum frequency is imposed and the feasibility of the stress test.

B. Policy objectives

45. The purpose of these draft RTS is i) to specify how competent authorities should decide when requiring an issuer of asset-referenced tokens to increase the own funds amount by providing

⁵ This Regulation is also relevant for issuers of e-money tokens that are subject to or required to comply with the requirements referred to in Article 35(2), (3) and (5) of Regulation (EU) 2023/1114

criteria on how to assess the possible higher risk of an issuer of asset-referenced tokens, ii) to provide issuers of asset-referenced tokens and competent authorities an harmonised procedure and timeframe to follow when a higher amount of own funds has been required and iii) to specify the minimum requirements of the stress testing programmes that all issuers of asset-referenced tokens would need to put in place.

C. Baseline scenario

46. In the baseline scenario, issuers of asset-referenced tokens would be subject to own-funds requirements and stress-testing obligations as specified in Regulation (EU) 2023/1114, excluding any additional specifications in the form of an RTS. This could lead to divergent approaches across competent authorities on the procedures and timeframes for an issuer of asset-referenced tokens to adjust to higher own-funds requirements, as well as divergent criteria when assessing a 'higher degree of risk'. Finally, it would also lead to differences in the stress testing programmes and methodologies due to lack of minimum harmonised requirements specified by these RTS.
47. Such a limited legal framework could negatively impact the level playing field among issuers of asset-referenced tokens and Member States. Above all, it could lead to financial instability if a negative shock materialised and issuers of asset-referenced tokens had not adequately assessed their own-funds requirements or solvency and liquidity status. The negative effects of this scenario would be magnified as the relevant market develops.

D. Options considered

General approach

48. Given the novelty of asset-referenced tokens and their issuers, the fact no universal risks assessment framework exists and the rapid developments in this sector, these RTS have been developed with a certain degree of flexibility for competent authorities while keeping the main overall objective of harmonisation of rules and convergence of supervisory practices.
49. The EBA followed a more prescriptive approach when specifying the procedure and for issuers to submit a compliance plan, while providing more flexibility to competent authorities on timeframe for an issuer of an asset-referenced token to adjust to higher own funds requirements (up to 6 months) and on the assessment of higher risk criteria (based on 3 criteria).
50. These draft RTS also provides general rules to be followed by issuers of asset-referenced tokens for the design, implementation and use of stress testing programmes and methodology. These rules will ensure a minimum level of consistency between issuers, while ensuring they are proportional to the size, complexity, and business model of the issuers.

51. For issuers of asset-referenced tokens to understand and model all risks they are exposed to, including any possible interlinkages between the crypto-ecosystem and the traditional financial sector stemming from reserves assets both a solvency and liquidity risk of issuers of asset-referenced tokens stress test is necessary as a minimum, and to ensure that the results of the stress test remain relevant, a minimum frequency of testing required. Furthermore, to assure that issuers of asset-referenced tokens have sound risk management culture and practices rules on internal governance and IT data infrastructure have been developed as well.

Procedure and timeframe

52. Overall, the EBA had the choice to create very detailed rules following a prescriptive approach (Policy option A) or provide guidance and flexibility to issuers and competent authorities following a more principles-based approach (Policy option B).

53. When issuers of asset-referenced tokens are required to increase the amount of own funds under policy option A they should follow a precise procedure, fully harmonised across the EU. This would include the specification of precise steps and timeframes that competent authorities and issuers of asset-referenced tokens would follow, following a rule-based approach.

54. Under this policy option the implementation of the procedure and timeframe would be easy, the operational burden for both competent authorities and issuers of asset-referenced tokens would be reduced, and a supervisory convergence would be ensured.

55. Policy option B would include the specification of a general procedure that competent authorities and issuers of asset-referenced tokens would need to follow, allowing for flexibility in the specification of the timeframe to increase the own funds.

56. While this option would allow competent authorities to adapt the procedure and timeframe to the specificities of the issuers of asset-referenced tokens it would not guarantee a good amount of harmonisation across the EU, creating possible comparative advantages (disadvantages) when the competent authority is more (less) lenient.

Definition of criteria for higher degree of risk

Policy option A

57. During the assessment of higher degree of risk carried out by the competent authority the criteria to establish whether an issuer of asset-referenced tokens is subject to a higher degree of risk under this option would be specific, composed by a list of risks to be assessed.

58. Policy option A would produce one criterium to be assess by the competent authority for each point in Article 35(3) of Regulation (EU) 2023/1114.

59. This comprehensive approach would reduce the operational burden of the competent authority, as the assessment of higher degree of risk of the issuer of asset-referenced tokens would be carried out via a sort of check list of items and would ensure a high level of

harmonisation across the EU. At the same time, this method could be less effective than expected, as some issuers of asset-referenced tokens, given their specific business models, might be exposed to a higher degree of risk due to issues not included in the list of criteria.

Policy option B

60. Under policy option B the assessment of higher degree of risk would follow a case-by-case approach following a broad assessment of all the criteria as specified in this Regulation. This would include assessing whether the issuer of asset-referenced tokens is likely to breach other requirements within a certain amount of time, whether the right of at-all-times redemption at par value and market value is not ensured either in normal or in stressed conditions and whether there is an increased risk of a significant deterioration of the value of the reserve assets or the financial situation of the issuer of asset-referenced tokens.
61. This approach would still set a minimum level of harmonisation across the EU, while at the same time ensuring some level of flexibility during the assessment of higher degree of risk, as the criteria to focus on would be adapted by the competent authority based on the specificities of the issuer of asset referenced tokens.

Minimum stress testing requirements

Policy option A

62. While setting the minimum requirements for stress testing programmes that issuers of asset-referenced tokens should have in place under policy option A the purpose of such stress testing has to be considered. A liquidity stress test is already included as mandatory in Regulation (EU) 2023/1114, Article 35(5) also specifies that competent authorities may require issuers of asset referenced tokens to increase their own funds based on the outcome of the stress testing, would therefore make sense to include a solvency stress test as a minimum, as this would ensure that the issuer of asset-referenced tokens is well capitalised.
63. Setting as minimum requirements a liquidity stress test and solvency stress test would ensure robust reserve asset management and operational requirements to instill confidence, ensure the stability of the peg and avoid a run on the token with possible contagion to the financial sector.
64. Under this policy option proportionality would be taken into account requiring issuers of significant asset-referenced tokens to conduct solvency stress test at least quarterly, while on semi-annual basis for issuers of non-significant asset-referenced tokens. In this way, the operational burden upon issuers of non-significant asset-referenced tokens is reduced, while the solvency of issuers of significant asset-referenced tokens is monitored closely, as their effect on the overall financial system during stress might be larger.

Policy option B

65. Policy option B would be identical to policy option A but it would introduce more types of stress-testing such as; a reverse stress testing and/or operational risk stress-testing as a minimum.

66. Under this option additional scenarios and circumstances that might produce future risk for the issuer of asset-referenced tokens would be stressed, but at the same time would create a material operational burden and considered in conjunction with other management practices.

E. Cost-Benefit Analysis

67. Relative to the baseline scenario, the measures introduced by these draft RTS entail moderate costs and large benefits. In terms of costs, issuers of asset-referenced tokens and competent authorities would have to bear any incremental costs associated with the implementation of all the minimum requirements for stress testing programmes. The issuer of asset-referenced tokens would also incur larger compliance costs, while the competent authority would incur higher supervisory costs through time. Nevertheless, the RTS weigh very carefully these costs, and tries to minimise them when the size of the issuers of asset-referenced tokens does not justify more burdensome measures.
68. In terms of benefits, the harmonisation of the legal framework regulating issuers of asset-referenced tokens would ensure a level playing field, which until now had to rely on national regulations, if present. This should incentivise a more effective risk management through the application of the stress testing procedures introduced by the legislators, and ensure that the development of issuers of asset-referenced tokens is compliant with the conditions needed to preserve financial stability. In turn, this would also favour the holder of asset-referenced tokens by building confidence in the financial system.

Stakeholders	Costs	Benefits
Issuers of asset-reference tokens	Adaptation and compliance costs	Better risk management Level playing field
Competent authority	Supervisory costs	Financial stability Level playing field
Clients/ token holders	None	Financial stability Confidence in the quality of the risk standards of the issuer

F. Preferred option

69. Regarding the procedure and timeframe that issuers of asset-referenced tokens should follow to increase their level of own funds a combination of option A and B is preferred, as it is easy to implement, reduced the operational burden and ensures supervisory convergence across the EU.
70. Regarding the definition of criteria for higher degree of risk option B is the preferred one, as it allows competent authorities to follow a case-by-case approach with a broad assessment of all the criteria without any additional burden for issuers of asset-referenced tokens. This option would also ensure a minimum level of harmonisation and proportionality.

71. Regarding the minimum requirements for stress testing option A is preferred, as it would ensure robust reserve asset management and operational requirements to instill confidence, ensure the stability of the peg and avoid a run on the token with possible contagion to the financial sector. Requiring liquidity and solvency stress tests as a minimum is indeed a balance between the burden on issuers of asset-referenced tokens and the good identification of the risks which they are exposed to.

4.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months and ended on 8 February 2024. 14 responses were received, of which 8 were public and published on the EBA website.

This summary below, provides the key points and some other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases several stakeholders made similar comments, or the same respondent repeated its comments in the response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

Changes to the draft RTS have been incorporated because of the responses received during the public consultation.

Summary of key issues and the EBA's response

The EBA received feedback on this consultation paper that can be divided into two categories, one with general comments and concerns on the level 1 text and the other with suggestions and recommendations on the key provisions included in these RTS.

On the former set of comments, respondents suggested that views from the industry should be further considered to improve the common understanding of the role of issuers of asset-referenced tokens, their challenges and how they interact with the competent authority.

Respondents also expressed concerns on the scope of the RTS and the mandate itself, arguing that well capitalised issuers should not be subject to further increases in own funds requirements and invited the legislator and the EBA to focus on possible remedial actions instead of increases in own funds requirements as the only instrument to cover for additional risks.

Additional comments also raised attention on the possible double counting of risks when an issuer is required to adjust its own funds in case it is deemed to have a higher degree of risk and as issuer of significant asset-referenced tokens. Respondents argue that the criteria to be applied by the competent authority to assess the higher degree of risk and those to classify an asset-referenced

token as significant may overlap and consequently the derived increase in own funds requirements may cover twice the same risks.

Regarding the latter, on the key provisions set in these RTS, respondents generally agreed with the process to assess the higher degree of risk, but argued that the time to provide a plan to adjust the own funds and the timeframe to implement such plan might be too strict, recommending the EBA to adopt a holistic view and consider all the regulatory requirements to which issuers of asset-referenced tokens are subject to and the internal and external discussions needed to produce such plan and implement it.

On the assessment of higher degree of risk respondents suggested to introduce a right to be heard for issuers of asset-referenced tokens before the competent authority finalises the assessment. Comments were also received on the criteria to be considered when the competent authority assesses the higher degree of risk, where respondents suggested to either further specify the existent criteria or include additional ones, such as the source of risk and the risk profile of the specific token issued.

Regarding the ban on new issuances while adjusting the level of own funds to higher requirements due to identified higher degree of risk, most respondents agreed that there is no need to impose business restrictions on any sort during the timeframe an issuer is implementing its. Specifically, it is argued that such restrictions would be detrimental to the business continuity of the issuers and pose a risk to its financial stability.

Finally, on the minimum requirements to design stress testing programmes, respondents mostly agreed to include a liquidity and solvency stress test and with the minimum frequency proposed but suggested to better specify the minimum frequency for the solvency stress test for issuers of non-significant asset-referenced tokens. On the possibility to implement a reverse stress testing, most respondents argued that it should not be included as a hard requirement.

Summary of responses to the consultation and the EBA’s analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Timeline for implementation MiCAR technical standards and guidelines	<p>Some respondents are concerned that due to the enormous number of level 2 technical standards and guidelines the ESA’s need to produce within a short timeframe as mandated by Regulation (EU) 2023/1114, not enough consideration can be given to the interdependencies and consistency between the different regulatory instruments nor that there is sufficient time for dialogue with the crypto-assets industry to have a full and holistic overview on the impact of these regulatory instruments on the issuers and market.</p> <p>These respondents request the EBA keep these technical standards longer under review and to delay the submission of the technical standards to the Commission to a later date to allow for more dialogue and reflection with the industry.</p>	<p>EBA acknowledges the comment. To facilitate the development and later the implementation of the regulatory instruments, EBA used a staggered approach to the consultation process to ensure sufficient time and consideration could be given to each regulatory product, while still making it possible for the EBA to comply with its legal requirement to submit these RTSs to the Commission by 30 June 2024. Furthermore, delaying the submission of technical standards to the Commission would lead to an increased uncertainty for supervisors and issuers on compliance with the rules and could hamper the development of the market.</p> <p>EBA also notes that according to Article 140 of Regulation (EU) 2023/1114 by 30 June 2025, the Commission (after consulting EBA and ESMA) shall present an interim report to the European Parliament and the Council on the application of this Regulation accompanied, where appropriate, by a legislative proposal. EBA suggest the stakeholders to make use of this timeframe to highlight to the Commission some of the concerns that have been raised in this consultation paper.</p>	No change.
Own funds requirements and scope of the RTS mandate	<p>Some respondents argue that in case an issuer is capitalised well above the minimum requirements, there is no reason - and no room - for the</p>	<p>The own funds requirements specified in Article 35(1) and Article 45(5) of Regulation (EU) 2023/1114 for significant issuers are the minimum own funds</p>	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>competent authority to set in its draft assessment of the higher own funds’ requirements an amount by which and a timeline within which the issuer should increase its own funds. As the maximum amount of own funds an issuer might be requested to hold is 4.8% of the average value of the reserve of assets an issuer that stands at 5% of own funds should not be asked by the competent authority to increase its own funds further, even if the issuer might still be subject to several risks. It is suggested that the level 1 text and the RTS should focus on the power of the competent authority to ask for remedial actions to mitigate the risks instead of having only the increase of own funds as supervisory instrument.</p> <p>Some respondents highlight, that there is no regulatory procedure to be followed when a competent authority requires an issuer to increase their own funds due to stress scenarios under Article 35(5). Although the Level 1 text does not specifically mandate EBA to prepare a regulatory procedure for this adjustment, for consistency and to ensure regulatory clarity and certainty, a similar procedure should be introduced. It is imperative that issuers can engage with their regulator in circumstances where capital will need to be materially diverted to meet own funds requirements and which may have a material and detrimental impact on the issuer’s potential revenue.</p>	<p>requirements. In case a competent authority decides to increase the minimum own funds requirements in accordance with Article 35(3) and/or Article 35(6) of Regulation (EU) 2023/1114, these increases are based on the application of the minimum own funds requirements in Article 35(1)(b) of that Regulation i.e. 2% (or 3%) of the average amount of the reserve assets and <u>not</u> on the actual own funds an issuer holds.</p> <p>The scope of the mandate of these RTS in clearly defined the level one text and related to procedure, timeframe, and criteria for requiring a higher own funds amount and for the minimum requirements for the design of stress-testing programmes and do not relate to the supervisory power of the competent authority which are outside the scope of this mandate.</p> <p>Indeed, these RTS do not include a regulatory procedure to be followed when a competent authority requires an issuer to increase their own funds due to stress scenarios under Article 35(5) as it’s outside the scope of the legal mandate. However, the EBA agrees that for consistency purposes and to ensure regulatory clarity and certainty, a similar procedure should be followed by competent authorities and issuers.</p>	<p>No changes.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Possible double counting of own funds requirements	<p>Some respondents are concerned about the potential double counting of risk as the criteria for higher degree of risk in Article 35(3) of Regulation (EU) 2023/1114 overlap in some way with the criteria used to consider an asset-referenced token as significant in Article 43(1) of Regulation (EU) 2023/1114. They argue that if an issuer is asked to increase its own funds because issuer of a significant asset-referenced token the competent authority should not be able to ask for additional own funds under Article 35(3) for higher degree of risk double counting the criteria already applied and for which the risks should be already covered by the increase in own funds from 2% to 3%.</p> <p>Also, some respondents argue that any (mandatory) overcollateralization of the reserve assets could lead to additional increase in own funds as the percentage of own funds required to be held by the issuer is derived from the level of the reserve assets.</p>	<p>According to Article 45(5) of Regulation (EU) 2023/1114, from the moment an issuer is classified as ‘significant’, or where applicable, in accordance with Article 35(4) or Article 58(2) of that Regulation an issuer is required, at all times, to have at least 3% of the average amount of the reserve assets referred to in Article 36.</p> <p>Furthermore, in accordance with the draft RTS to specify the procedure and timeframe to adjust the own funds requirements for issuers of significant asset-referenced tokens or of e-money tokens subject to the requirements set out in Article 45(5) of Regulation (EU) 2023/1114, competent authorities shall notify issuers the timeframe to increase own funds to 3% due to being classified as ‘significant’.</p> <p>This above-mentioned process is separate from the competent authority assessment and possible increase in own funds due to ‘higher risk’ in accordance with Art 35(3) of Regulation (EU) 2023/1114. The point in time of the competent authority assessment and request for increase of own funds due to ‘higher risk’ is crucial. If the assessment and demand for increase happens before the ‘significant’ classification of the issuer, the increase of own funds must be based on the 2% of the reserve assets, while if the assessment and demand for increase happens after the ‘significant’ classification of the issuer it is based on 3% of the reserve assets as such there is no possible overlap or double counting effect.</p>	No changes.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>The own funds requirements specified in Article 35(1) and Article 45(5) of Regulation (EU) 2023/1114 for significant issuers are based on the application of the minimum own funds requirements in Article 35(1)(b) i.e. 2% (or 3%) of the average amount of the reserve assets. Overcollateralisation will not increase the 2%/3% but could increase the absolute average amount of the reserve of assets. So, there is no double counting, however it's correct that the assets used to meet the overcollateralisation requirement will be part of the reserve of assets.</p>	
<p>Responses to questions in Consultation Paper EBA/CP/2023/28</p>			
<p>Question 1. Is the procedure clear and the timelines for the issuer to submit the plan reasonable?</p>	<p>Most respondents agree that the procedure and timelines are clear, however, some respondents argue that the timeline for the issuer to submit a plan should be more than 20 working days, mostly proposing 30 working days or based on case-by-case analysis. One respondent believes 20 working days is sufficient. Two respondents also argue that the timeline for the issuer to provide comments should be increased from 25 to 30 working days, while other two believe that 25 working days is sufficient.</p> <p>Two respondents also recommend indicating a set timeframe for the competent authority to issue the final assessment.</p>	<p>The EBA acknowledges the need of issuers of asset-reference tokens to interact with internal and external stakeholders when preparing a plan to adjust its own funds. Consequently, an adjustment to the time limit for the issuer to provide the plan is deemed reasonable, changing it from 20 to 25 working days. An additional increase would excessively lengthen the process and would ultimately delay the increase in own funds.</p> <p>The EBA acknowledges some of the other suggestions that the RTS should consider such as: the impact of increase of own funds on issuer or token holders or the request for more detail information on the</p>	<p>Paragraph 5 of Article 1 has been amended to 25 working days (instead of 20 working days).</p>

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	<p>Five respondents suggest that while the RTS reflect well the implications for financial stability of the issuer and the wider financial system, they do not adequately take account of the implications for ART/EMT holders, also suggesting that the draft assessment should take into account whether the timeframe or the amount to adjust the own funds may have a detrimental impact on the issuer.</p> <p>Two respondents argue that the draft assessment should include more detailed overview, proposing to include additional information (e.g. risk assessment methodology and process, mitigation and internal control processes, remedial actions, etc).</p> <p>Two respondents proposed to add in the process a consultation period between the issuer and the competent authority before the latter issues the final notification to the former.</p>	<p>assessment or request for an additional consultation period before final decision by the competent.</p> <p>However, the EBA believes that many of these suggestions form part of the ‘normal’ supervisory process. Also, the EBA has on purpose not included timelines or deadlines to ensure the competent authority has sufficient time for (follow-up) evaluations, request for (additional) information and/or dialogue with issuers on the assessment or any views expressed by the issuer and the timeframe to increase the own funds before the final determination is made.</p>	
<p>Question 2. Are the timeframes for issuers to adjust to higher own funds requirements feasible?</p>	<p>Almost all respondents consider that a 3-months timeframe to adjust to higher own funds requirements in case there is a material impact to the financial stability of the wider financial system or of the issuer itself is too short. One respondent believes the timeframe is sufficient.</p> <p>Most respondents suggest that this timeframe should be increased from 3 to 6 months, especially if the issuer can demonstrate in the plan that any identified material risk can be mitigated within that period. One respondent also believes that there should not be any prescriptive limit to the</p>	<p>The EBA acknowledges the impact on the issuer to increase the own funds requirements and the possible need to more risk-mitigating measures, change business strategy and/or to raise additional capital. For these reasons, the maximum amount of time that the competent authority may grant to the issuer with a higher degree of risk has been adjusted to 6 months. A further increase is in EBA’s view, not in line with the possible higher risk that the issuers of asset-referenced tokens may pose to its financial stability and may create enough time for the risk to materialise. Increase beyond 6 months to meet the</p>	<p>Paragraph 2 of Article 2 has been</p>

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	<p>timeframe to increase the own funds, but it should be based on an agreement between issuer and competent authority having regard to the plan proposed.</p> <p>Some respondents also argue that the period to adjust the own funds within 1 year should be extended also in cases where the issuer can demonstrate to the competent authority that a shorter period would have a detrimental effect on token holders.</p> <p>One respondent requested more clarity on the timeframe to adjust the own funds starts from i.e. moment when the clock starts ticking.</p>	<p>additional minimum own funds requirements in case of higher risk are never acceptable regardless of the reason as this might highlight larger underlying risks that cannot be mitigated temporary by higher own funds and might require a competent authority to take more severe supervisory actions.</p> <p>In accordance with Article 1(4) of this Regulation, the competent authority will notify the issuer with the final determination of the evaluation and include the timeline within which the relevant issuer shall increase its own funds requirements.</p>	<p>changed to 6 months (instead of 3 months).</p>
<p>Question 3. During the period when own funds need to be increased by the issuer, should there be more restrictions on the issuer to ensure timely implementation of the additional own funds' requirements, for example banning the issuance of further tokens?</p>	<p>All respondents argue that the issuer should not be subject to any mandatory restrictions during the implementation of the additional own funds' requirements. For example, banning the issuance of further tokens may impair token holder confidence and lead to an increase in run-risk, resulting in price volatility with unintended consequences or have other market effects on the tokens or other tokens in the market. It could also enhance the issuers operational and liquidity risk and impact other counterparties involved.</p> <p>Some respondents also argue that as long as the issuer follows the plan outlines and provides regular updates to the competent authorities there is no reason for a ban on new issuances to be enforced. Any restrictions must always be appropriate to the</p>	<p>The EBA acknowledges the risks that introducing business restrictions during the adjustment of own funds may pose to the stability of the issuer and the possible impairment of token holders' confidence.</p>	<p>No changes.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 4. Do you agree with the criteria to identify if an issuer has a higher degree of risk?	<p>individual issuer, its risk profile and considered on a case-by-case basis.</p> <p>Most respondents generally agree with the criteria to identify if an issuer has a higher degree of risk.</p> <p>Five respondents suggest that “Stressed conditions” and “Significant deterioration of the reserve assets” should be clearly defined to allow issuers to adapt their own risk management accordingly.</p> <p>Three respondents also argued that competent authority’s approach to determine the likelihood of breaching specific requirements within the subsequent twelve months should be further specified.</p> <p>Two respondents suggested that the source of risk, either internal or external, should be considered by the competent authority during the assessment of higher degree of risk.</p> <p>Additionally, one respondent commented that the specific features and risk profile of the token should be considered, another suggested that the quality and the amount of reserve assets should be taken into account to mitigate risk, while a third respondent argued that the criteria to identify higher degree of risk should focus only on larger firms posing systemic risks or firms whose increased risks pose direct risks to their holders.</p>	<p>The EBA would like to clarify that “Stressed conditions” refer to the same situations referred to in Article 39(2)(b), the wording will be adjusted in these RTS to ‘stressed market circumstances’. Furthermore, ‘significant deterioration’ means a significant amount or effect is large enough to be important or affect a situation (in this case the reserve assets or financial situation of the issuer) to a noticeable degree. It’s for the competent authority to make this assessment and is part of the supervisory process.</p> <p>The EBA would like to clarify that the likelihood of breaching specific requirements should be intended as referred to in Article 46(3) of Regulation (EU) 2023/1114. It’s for the competent authority to make this assessment and is part of the supervisory process.</p> <p>As per Recital 3, competent authorities should perform the ‘higher risk’ evaluation on a case-by-case basis following a broad assessment of all criteria specified in this Regulation. The criteria have on purpose been kept at a higher level and on principal basis to ensure that competent authorities have sufficient flexibility to take all relevant specific features and risk profiles of the different issuers and tokens into account in the evaluation of ‘higher risk’.</p>	<p>Article 3(b) has been amended to ‘stressed market circumstances’</p>

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<p>Question 5. Do you agree with the procedure to assess whether an issuer has a higher degree of risk?</p>	<p>Most respondents welcome the procedure of evaluating the higher degree of risk on a case-by-case basis, considering in this way the specificities of each issuer.</p> <p>Three respondents recommended to introduce a defined right for the issuer to provide input and reasoning during the competent authority’s assessment of higher degree of risk.</p> <p>While some respondents suggests that there should be more clarity on how the competent authority will evaluate the risks, others argue that Article 3 should provide additional substance regarding the required supervisory process and dialogue set out in recital 5.</p>	<p>Paragraph 1 of Article 1 of this Regulation requires the competent authority to “<i>take due account of any views expressed by such issuer</i>” before providing the issuer with the draft assessment of higher degree of risk and according to paragraph 3 of Article 1 may express its views on the draft, as such, the EBA believes the point for the issuer to provide input and reasoning is already incorporated into these RTS.</p> <p>The scope of the mandate of these RTS is clearly defined in the level one text and related to procedure, timeframe, and criteria for requiring a higher own funds amount and for the minimum requirements for the design of stress-testing programmes and do not relate to more information on the supervisory evaluation process.</p>	<p>No changes.</p>
<p>Question 6. Do you consider the criteria and their evaluation benchmarks sufficiently clear?</p>	<p>Most respondents agree that the criteria and benchmarks are sufficiently clear. While two respondents argued that the criteria and their evaluation benchmarks are vaguely described and require a certain level of flexibility from competent authorities to assess them.</p> <p>Two respondents suggested that the criteria identified in Article 3 should further clarify how to avoid the potential double counting of risks between Article 35(3) of Regulation (EU) 2023/1114, which sets out general benchmarks to be used by the competent authority when assessing the higher degree of risk of an issuer, and Article 43(1) of Regulation (EU) 2023/1114, which</p>	<p>As per Recital 3, competent authorities should perform the ‘higher risk’ evaluation on a case-by-case basis following a broad assessment of all criteria specified in this Regulation. The criteria have on purpose been kept at a higher level and on principal basis to ensure that competent authorities have sufficient flexibility to take all relevant specific features and risk profiles of the different issuers and tokens into account in the evaluation of ‘higher risk’. According to Article 45(5), from the moment an issuer is classified as ‘significant’, or where applicable, in accordance with Article 58(2) an issuer is required, at all times, to have at least 3% of the average amount of the reserve assets referred to in Article 36.</p>	<p>No changes.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	describes the criteria for the classification of an ART or EMT as significant.	<p>Furthermore, in accordance with the draft RTS to specify the procedure and timeframe to adjust the own funds requirements for issuers of significant asset-referenced tokens or of e-money tokens subject to the requirements set out in Article 45(5), competent authorities shall notify issuers the timeframe to increase own funds to 3% due to being classified as ‘significant’.</p> <p>This above-mentioned process is separate from the competent authority assessment and possible increase in own funds due to ‘higher risk’ in accordance with Art 35(3). The point in time of the competent authority assessment and request for increase of own funds due to ‘higher risk’ is crucial. If the assessment and demand for increase happens before the ‘significant’ classification of the issuer, the increase of own funds must be based on the 2% of the reserve assets, while if the assessment and demand for increase happens after the ‘significant’ classification of the issuer it is based on 3% of the reserve assets, as such, there is no possible overlap or double counting effect.</p>	
<p>Question 7. Do you agree with the need for a solvency and liquidity stress-test and the requirements of the stress-test?</p>	<p>All respondents agree with the need for a solvency and liquidity stress-test and the requirements of the stress-test.</p> <p>One respondent recommends that stress testing requirements should be formulated and applied in a proportionate manner and consistently across EU.</p> <p>One respondent suggests that a concrete model of stress testing programme for issuers to directly</p>	<p>The EBA agrees with the need for a solvency and liquidity stress-test and acknowledges the need for a proportionate and consistently application across the EU.</p> <p>As per the scope of the legal mandate, the EBA has developed the framework with the minimum requirements for the stress testing programme for issuers, however, the specific design, complexity and</p>	<p>No changes.</p>

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<p>Question 8. Do you agree with the frequency and time horizon of the solvency and liquidity stress-test? Should there be more differentiation between significant and not-significant issuers? Should the stress testing be more frequent for issuers of asset-referenced tokens referenced to official currencies?</p>	<p>implement or adjust to their needs would be welcomed.</p> <p>One respondent argues that the liquidity stress testing should focus on the risks related to the support of the EMT, not the entirety of the business.</p> <p>Overall, most respondents agree with the frequency and time horizon of the stress-tests.</p> <p>Six respondents recommended to better explain the different minimum frequency of solvency stress test for issuers of significant and non-significant assets referenced tokens.</p> <p>Two respondents argued that the minimum frequency of liquidity stress test of one month is not required and too onerous, as the relevant risks are already covered by the strict requirements applied to the reserve of assets. One of the two respondents also suggests that liquidity stress test, like the solvency one, should be proportionate and be bimonthly for issuers of non-significant asset-referenced tokens.</p> <p>One respondent agrees with the frequency and time horizon of the stress tests and mentions that there should not be further diversification between significant and non-significant issuers of ARTs or EMTs.</p>	<p>level of detail of the stress-test should be appropriate to the issuer nature, business strategy and risk profile as such no concrete model can be proposed.</p> <p>As highlighted above, the EBA expect issuers to develop stress-testing programmes considering the issuers nature, business strategy and risk profile and only to consider in the solvency and liquidity stress-test the different risks categories, where applicable.</p> <p>The EBA welcomes the response and would like to clarify that the minimum frequency of solvency stress test for issuers of non-significant tokens, either assets referenced tokens or, where applicable, issuers of e-money tokens is at least semi-annual. The RTS has been redrafted to clarify this.</p> <p>In order to ensure redemption of the tokens at-all-times, it is necessary for all type of issuers to have liquidity stress-test at least on a monthly basis, this will help both the issuers and the competent authorities in the monitoring process and to capture any potential issues or risk on time.</p>	<p>First paragraph of Article 6 has been amended to clarify difference for significant and non-significant issuers.</p>

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<p>Question 9. Should a reverse stress requirement/methodology be introduced?</p>	<p>Most of the respondents believe that there is no need to introduce a reverse stress testing requirement or methodology as often results in highly extreme and unrealistic outcomes.</p> <p>Three respondents recommended considering the implementation of reserve stress testing for issuers of significant asset-referenced tokens, suggesting a yearly frequency.</p>	<p>The EBA acknowledges the comments. Considering the novelty of this market and the early development stage of stress-testing programmes and methodologies for issuers, the EBA does not want to increase the operational burden and introduce additional stress-tests at this stage.</p> <p>However, as highlighted by some respondents, issuers themselves may decide to implement such stress testing if deemed useful as these RTS only specify the minimum requirements.</p>	<p>No changes.</p>
<p>Question 10. Do you have any other comments in relation to the stress-testing part in these RTS?</p>	<p>Three respondents suggested that the EBA should provide additional guidance on Article 9 regarding how the different types of risks shall be addressed and provide fixed calculation guidelines.</p> <p>One respondent believes that the requirements in Article 9 for issuers to quantify the severity and plausibility of stress scenarios identified should be based on approximate estimations, as some issuers might not have yet the dataset to provide quantifications of such scenarios.</p> <p>One respondent argues that Article 4(6) might be challenging as business units that are not directly involved in the implementation of the stress testing programme might lack the required knowledge or experience necessary for the assessment, suggesting that such requirements may be asked only to those directly responsible for the stress test programme development.</p>	<p>The risk categories in Article 9 of this Regulation have on purpose been kept at a higher level, to ensure issuers can follow a more principal based approach to capture all the relevant risks to the specific issuer and designing the stress-test scenarios based on their nature, business strategy and risk profile. Furthermore, providing fixed calculation guidelines would go beyond the scope of the mandate.</p> <p>Considering the novelty of this market and the early development stage of stress-testing programmes and possible lack of historical information can be based on ‘approximate estimations’ as well.</p> <p>The stress-testing programme should be designed as an integral part of the issuer’s risk management framework and should support for example different business decisions and process as well as strategic planning and risk tolerances levels as such it’s imperative that it’s roll-out across different business lines of the issuer.</p>	<p>Paragraph 5 of Article 9 has been amended to include ‘approximate estimations’</p> <p>Paragraph 2 of Article 7 has been changed to clarify that the assessment as to whether the members of the management body</p>

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			have sufficient knowledge, skills and experience is 'collectively' for the management body and not on individual member basis.