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Priorities for ART/EMT issuers supervision – 2024/2025

1. The Regulation on Markets in Crypto-assets¹ (MiCAR) entered into force on 29 June 2023. The majority of the provisions related to issuers of e-money tokens (EMTs) and asset-referenced tokens (ARTs) apply from 30 June 2024. MiCAR regulates the offering to the public and admission to trading of ARTs, EMTs and crypto-assets other than ARTs and EMTs, as well as the provision of crypto-asset services in the Union. Inter alia, MiCAR sets out a wide range of regulatory requirements, including authorisation, conduct and prudential requirements for issuers of ARTs and EMTs.
2. The EBA has a mandate to promote cooperation and coordination between competent authorities and to foster supervisory convergence. The goal is to ensure effective supervision of issuers of ARTs and EMTs under MiCAR and promote best practices that are being adopted by supervisors. The EBA has been actively engaging with competent authorities to build a common supervisory culture and consistent supervisory practices.
3. In September 2023, the EBA established the Crypto Supervision Coordination Group comprising competent authorities and, as observers, the EC, ECB and ESMA. This group provides a platform for the exchange of experience, supervisory practices and the coordination of supervisory actions, primarily in the areas of the authorisation and supervision of issuers of ARTs and EMTs until the establishment of the permanent Crypto-Asset Standing Committee² expected in Q1 2025³.
4. To achieve a coordinated supervisory approach and ensure a level playing field, the EBA is proposing to set up common supervisory priorities indicating areas to which supervisory efforts should be directed.
5. To identify supervisory priorities areas for 2024/2025, the EBA has leveraged supervisors' expertise and experience, as well as prior work on monitoring risks stemming from the crypto

¹ Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40–205)

² As per Article 118 of MiCAR

³ after all relevant provisions are applicable

markets⁴. It is envisaged that these supervisory priorities shall be reviewed annually, based on a regular risk assessment integrating market developments, supervisory experience and regulatory changes.

6. Building robust internal governance and risk management is key to building confidence in the sector. Supervisory expectations anticipate that all entities issuing ARTs/EMTs, including newly regulated ones, exhibit strict compliance with own funds and reserve of assets requirements. Such compliance will contribute to building a financially resilient ART/EMT issuance sector which shall be capable of withstanding changing market conditions and heightened levels of redemption requests.
7. The supervisory activities related to the issuance of ARTs and EMTs aim primarily at the reduction of risks and impacts on holders' protection, the stability of the overall financial system, the smooth functioning of payment systems and on market integrity. The latter areas are key considerations for supervisory actions and decisions as well as for supervisory risk assessment.

Supervisory priorities

8. The following supervisory priority areas for supervision of issuers of ARTs and EMTs are identified: 1) internal governance and risk management; 2) financial resilience (including, where applicable, own funds requirements and reserve of assets); 3) technology risk management; and 4) financial crime risk management. It should be highlighted that a high level of holder protection and financial stability remain as over-arching objectives to consider for all priority areas.

1) Internal governance and risk management

9. A robust and effective internal governance and risk management framework is key to support entities in achieving their objectives and identifying, assessing, managing and mitigating risks. More specifically, for issuers of ARTs and EMTs, the clarity of the governance framework is particularly important for global entities with complex structures. Moreover, the robustness of custody policies, procedures and contractual arrangements is critical from the perspective of holder protection.

10. Supervisors are expected:

- to verify that issuers have clear governance framework in place with clear lines of responsibilities;
- to assess the suitability of the management with specific focus on skills and knowledge and previous experience relevant to the crypto sector;

⁴ See for example (non-exhaustive list): [EU financial regulators warn consumers on the risks of crypto-assets | European Banking Authority \(europa.eu\) FR11/23 Policy Recommendations for Crypto and Digital Asset Markets \(iosco.org\) High-level Recommendations for the Regulation, Supervision and Oversight of Crypto-asset Activities and Markets: Final report - Financial Stability Board \(fsb.org\)](#)

- to verify that conflicts of interest are, where applicable, properly identified, prevented, monitored, managed and disclosed, with a particular attention to entities engaging in multiple activities and to the interconnections with crypto-asset service providers and other financial entities;
- to assess that issuers have established and maintained effective and transparent complaints-handling procedures;
- to assess the risk management framework of issuers and ensure that it is appropriate and commensurate to issuers' size, business models and complexity; and
- to assess third party dependencies and outsourcing risk with a particular focus on custody arrangements.

2) Financial resilience

11. MiCAR has introduced own funds requirements⁵ and requirements for reserves of assets in order to act as a safeguard in the context of changing market conditions without compromising holder protection and to mitigate financial stability risks. Sufficient capitalisation and appropriate composition and management of reserves of assets are key elements in ensuring the financial resilience of issuers and in addressing the liquidity risks associated to the permanent rights of redemption of the holders.

12. Supervisors are expected:

- to assess compliance with own funds and reserve of assets composition and management requirements, where applicable, rigorously;
- to assess the quality of reserve assets in order to verify compliance with the MiCAR requirements.

3) Technology risk management

13. Distributed ledger technology (DLT) is still relatively nascent, and the market witnessed rapid developments in this area with an increasing number of applications and DLTs as well as challenges (such as hacks and exploits). It is important that associated ICT risks are controlled and do not lead to outcomes to the detriment of holders.

14. Supervisors are expected:

- to assess general ICT risks and risks resulting from the use of DLTs, including the risks inherent to the storage and transfer of the crypto-assets over a DLT and the use of smart contracts;
- to assess the operational resilience of issuers and their vulnerability to cyber threats;
- to assess the criteria for the choice of the DLTs that are used by the ART and EMT issuers and contingency and backup plans in case of disruptions to those DLTs.

⁵ For issuers of ARTs and significant EMTs other than credit institutions or where required by the competent authority.

4) Financial crime risk management

15. Financial crime, including ML/TF risk and sanctions evasion, is a major concern in relation to crypto markets and is also relevant from a holders' protection perspective. Inherent financial crime risk arises from the speed of transactions, the global nature of some products and features that favour anonymity. At the same time, market events so far suggest that the overall controls environment in the sector is limited.

16. Supervisors are expected:

- to ensure that individuals who own, control or manage an ART or EMT issuer do not expose the issuer to an unacceptable risk related to financial crime, including ML/TF risks, for example because they have a criminal conviction, or because based on available information, they could be involved in financial crime, for example because they maintain close relationships with a criminal or sanctioned individual or entity;
- to assess the adequacy of proposed financial crime controls, including AML/CFT controls where the issuer is an obliged entity for AML/CFT purposes, to be satisfied that these are sufficient to enable the issuer to prevent and detect financial crime;
- to liaise with their AML/CFT counterparts for expert input where appropriate.

Implementation

17. In implementing supervisory priorities, the supervision of the issuers of ARTs and EMTs is expected to follow a proportionate and risk-based approach and leverage on available tools. The EBA, in cooperation with competent authorities, has been developing tools to support supervisory convergence in the sector of ART and EMT issuance and it will continue to develop further based on evolving supervisory experience.

18. Proportionality is embedded by design in the legal framework and in the associated technical standards. Supervisors are expected to keep this principle in mind when assessing different requirements.

19. Supervision of ART and EMT issuance is expected to be risk-based, with supervisory activities focusing on the most relevant and impactful risks and considering the specific risks of the entities as well as the risks to the holders. When performing the risk assessment and applying the supervisory priorities to the supervisory activities, supervisors should also consider that various entities can engage in ART and EMT issuance activities (credit institutions, e-money institutions, other legal entities), and they may have different risk profiles, maturity levels and compliance culture.

20. The EBA acknowledges that changes in market conditions or structure, technology, and the regulatory framework may occur and warrant the (re)prioritisation of supervisory tasks. At the same time, it is important to keep in mind that supervising ART/EMT issuance activities is a novel challenge for both supervisors and the entities they oversee, therefore a certain agility is expected from all parties to adapt to new developments.

21. Going forward, the EBA will continue promoting cooperation and coordination between competent authorities. The EBA will use the most appropriate tools at its disposal including bilateral discussion with competent authorities, peer reviews, and supervisory convergence workshops to strengthen and monitor convergence, to ensure that the supervisory priorities are embedded in supervisory activities.