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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

The Director-General

Brussels,
FISMA/IK/es/fisma.b.4(2025)8143191

Mr José Manuel Campa
Chair European Banking Authority
20 avenue André Prothin
92927 Paris
France

Dear Mr Campa,

On 13 June 2024, the European Banking Authority (EBA) sent to the Commission the draft Regulatory Technical Standards (RTS) regarding Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulation (EU) 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ([1]) (MiCA). The draft RTS further specifies the liquidity requirements of the reserve of assets and their management, in particular the relevant percentages of the reserve of assets according to daily and weekly maturities, other relevant maturities and overall techniques for liquidity management as well as the minimum amount of deposits in each official currency referenced of at least 30% of the amount referenced in each official currency (draft RTS on liquidity requirements).

With this letter I would like to inform the EBA that the Commission intends to endorse the proposed draft RTS on liquidity requirements once changes are introduced as set out in the annex. The reasons for these changes can be summarised as follows:

Minimum requirements for asset-referenced tokens that reference at least one asset that is not an official currency

- As explained in recital 4 of the amended draft RTS on highly liquid financial instruments, the referenced assets can be directly included in the reserve of assets. The optimal correlation between the reserve assets and referenced assets pursuant to the objective laid down in Article 36(1), point (a), of MiCA can be achieved by including the referenced assets in the reserve of assets; derivative instruments relating to the referenced assets are only the second-best option.

- However, the issuer must compose and manage the reserve of assets to also achieve the objective of Article 36(1), point (b), of MiCA, which is to “address the liquidity risks associated to the permanent rights of redemption of the holders”.

- If an ART references to assets that are non-HLFI such as commodities, and crypto-assets, the inclusion of such assets in the reserve of assets could run counter to the objective of liquidity of the reserve asset set out in Article 36(1), point (b), of MiCA.

- To strike the right balance between the two objectives of correlation and liquidity set out in Article 36(1) of MiCA, the amended draft RTS on liquidity requirements includes Article 3, together with the corresponding recital 3, which requires that

([1]) OJ L 150, 9.6.2023, p. 40

any ART that references at least one asset that is not an official currency should be backed by the reserve of assets that consists of at least 10% in HLFI, or in case of significant ARTs, of at least 20%. Thereby, the RTS prevent that a reserve of assets would consist of only referenced assets which are not-HLFI, hence endangering the liquidity objective of Article 36(1), point (b), of MiCA.

- These amendments aim to ensure that the liquidity objective of Article 36(1), point (b), that the draft RTS specify are not undermined in case of ARTs referencing other assets than official currencies, and together with amendments to the draft RTS on highly liquid financial instruments, aim to strike the right balance between the two objectives of Article 36(1).

In light of the above, I would like to inform you that the Commission, acting in accordance with the procedure set out in the sixth and seventh subparagraphs of Article 10(1) of Regulation (EU) 1093/2010, intends to adopt the RTS on liquidity requirements submitted by the EBA once the above-mentioned concerns are taken into account and the necessary modifications are made by the EBA.

As per the sixth subparagraph of Article 10(1) of Regulation (EU) 1093/2010, where the Commission intends to adopt draft RTS in part or with amendments, it must send the draft RTS back to the Authority, explaining the reasons for their amendments, and within a period of 6 weeks, the Authority can amend the draft RTS on the basis of the Commission's proposed amendments and resubmit it in the form of a formal opinion to the Commission.

It should be recalled that the procedure laid down in the seventh subparagraph of Article 10(1) of Regulation (EU) No 1093/2010 sets out that if, on the expiry of that six-week period, the Authority has not submitted an amended draft RTS, or has submitted a draft RTS that is not amended in a way consistent with the Commission's proposed amendments, the Commission can adopt the RTS with the amendments it considers relevant, or reject it.

I would like to express our appreciation for the work undertaken by EBA to deliver the draft RTS and look forward to continuing our good cooperation on this legal act.

Yours sincerely,

Electronically signed

John BERRIGAN

Enclosure: Amended draft Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards for specifying the liquidity requirements for the reserve of assets of issuers of asset-referenced tokens and of certain e-money tokens

c.c.: Aurore Lalucq, MEP, Chair of the Committee on Economic and Monetary Affairs, European Parliament; Thérèse Blanchet, Secretary-General of the Council of the European Union