

EBA/CP/2026/10

26 June 2026

Consultation Paper

on a Methodology for setting fines
under Regulation (EU) 2023/1114
(MiCA)

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 28.09.2026. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the [Legal notice section](#) of the EBA website.

2. Executive Summary

The EBA is responsible for supervising issuers of significant asset-referenced tokens (s-ART) and significant e-money tokens (s-EMT) under Regulation (EU) 2023/1114 (MiCA). When it finds that the issuers of such tokens have committed an infringement of MiCA requirements, the EBA can impose fines under Article 131 of MiCA. MiCA sets maximum amounts for fines, but the precise amount imposed will be decided case-by-case. The EBA has therefore developed a draft methodology to provide a consistent and transparent approach to imposing sanctions on issuers of significant asset-referenced tokens and e-money tokens subject to the EBA's supervisory powers¹.

The EBA's draft methodology has been inspired by practices applicable for similar types of fines in relation to other regulatory frameworks at EU and national level. It consists of two steps:

- (i) establishing a basic amount for the sanction; and
- (ii) adjusting that amount based on the aggravating and mitigating factors of the individual case.

The resulting amount may be further adjusted where necessary to reflect the EBA's supervisory and consumer protection objectives, subject to the maximum limits set by MiCA.

Next steps

After a consultation period of three months, the EBA will finalise and publish the methodology.

¹ This methodology does not apply to competent authorities' enforcement procedures. When those authorities determine the type and level of an administrative penalty or other administrative measure Article 111 of MiCA applies instead.

3. Background and rationale

3.1. Background

1. In accordance with Article 117 of Regulation (EU) 2023/1114 (MiCA), where an asset-referenced token (ART), or an e-money token (EMT) issued by an electronic money institution, is classified as significant by the EBA, the EBA will supervise the issuers of such tokens².
2. As regards issuers of significant ARTs (s-ART), the EBA will supervise their compliance by exercising the powers of competent authorities conferred by Articles 22 to 25, 29, 33 Article 34(7) and (12), Article 35(3) and (5), Article 36(10) and Articles 41, 42, 46 and 47 of MiCA.
3. As regards issuers of significant EMTs (s-EMT), the EBA will supervise the compliance of electronic money institutions issuing s-EMT with Articles 55 and 58 of MiCA.
4. Where the EBA finds that an issuer of an s-ART or s-EMT has committed an infringement among those listed in Annexes V and VI of MiCA, respectively, it needs to adopt one or more of the supervisory measures listed in Article 130(1) and (2) of MiCA. These supervisory measures include the possibility of imposing fines, as set out in Article 130(1)(b) and 130(2)(b) of MiCA, for s-ART issuers and s-EMT issuers, respectively.
5. This consultation paper sets out the EBA's proposed approach to calculating such fines.
6. Having an EBA methodology will provide a consistent and transparent approach to imposing fines on issuers of significant asset-referenced tokens (s-ART) and e-money tokens (s-EMT) subject to the EBA's supervisory powers which can be referenced when explaining how the EBA decided on the amount of a fine in individual cases.

² In accordance with Article 117(5) of MiCA national competent authorities also have a role to play in the supervision of electronic money institutions issuing s-EMTs.

7. MiCA requires the EBA to take into account the nature and seriousness of the infringement and specifies 11 criteria to have regard to for that purpose³. These have been incorporated into the draft methodology. In addition, the EBA looked at⁴:
- the European Commission’s Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (2006/C 210/02), in the area of competition⁵;
 - the Single Supervisory Mechanism’s Guide to the method of setting administrative pecuniary penalties pursuant to Article 18(1) and (7) of Council Regulation (EU) No 1024/2013, in the course of their prudential supervision of credit institutions⁶;
 - ESMA’s information on the methodology to set fines in the context of their supervision of credit rating agencies, trade repositories, securitisation repositories and third country central counterparties⁷;
 - the draft Regulatory Technical Standards (RTS) on the indicators and the criteria to be taken into account when setting the level of pecuniary sanctions that are part of the EBA’s response to the European Commission’s Call for Advice on the new AMLA mandates⁸; and
 - the methodologies for setting fines of some national supervisors in the course of their prudential supervision of credit institutions.

³ The Commission has also adopted Commission Delegated Regulation (EU) 2024/1504 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying the procedural rules for the exercise of the power to impose fines or periodic penalty payments by the European Banking Authority on issuers of significant asset-referenced tokens and issuers of significant e-money tokens, OJ L, 30.05.2024 (MICA Delegated Regulation). This further specifies the procedural rules for the exercise of the EBA’s powers to impose fines or periodic penalty payments. This delegated act also includes provisions on the rights of defence, collection of fines and periodic penalty payments and limitation periods for the imposition and enforcement of such penalties. These procedural rules are directly applicable to the EBA and have also been duly considered in the development of this EBA Methodology.

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006XC0901%2801%29> .

⁶ https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.guidetothemethodofsettingadministrativepecuniarypenalties_202103~400cbafa55.en.pdf

⁷ https://www.esma.europa.eu/sites/default/files/esma_-_information_regarding_methodology_to_set_fines.pdf

⁸ <https://www.eba.europa.eu/sites/default/files/2025-10/b5a9a9aa-ce4f-4130-89a7-a19f2e791750/EBA%20response%20to%20EC%20CfA%20on%20six%20AMLA%20mandates%202025%2010%2030.pdf> , p. 17 *et seq.*

3.2. Explanation of the different steps of the draft methodology

8. In accordance with Article 131(1) of MiCA, when the EBA identifies that an issuer of a significant token or a member of its management body has negligently or intentionally committed an infringement listed in Annex V or Annex VI of MiCA, the EBA needs to adopt a decision imposing a fine.
9. Based on the different options explored, the EBA proposes a two-step methodology which (1) sets a basic amount for the fine; and (2) adjusts that basic amount. The resulting amount may be further adjusted by the EBA based on any of the criteria in Article 131(2) which have not been taken into account in the second step, and on the EBA's supervisory and consumer protection objectives. The fine is subject to the limitations set out in Article 131(3) and (4) of MiCA (maximum amounts based on percentages of annual turnover, or twice the amount of profits gained or losses avoided because of the infringement, where those can be determined).

3.2.1. Step 1: Determination of the basic amount of the fine

10. MiCA does not set out a basic/minimum amount for the fine; it only sets out the maximum amounts of the fines to be imposed. Those maximum amounts are as set out in Article 131(3) for ARTs and (4) for EMTs, respectively, as follows.

For issuers of s-ARTs:

- 12.5 % of their annual turnover in the preceding business year, or
- twice the amount of profits gained or losses avoided because of the infringement where those can be determined.

For issuers of s-EMTs:

- 10 % of their annual turnover in the preceding business year, or
- twice the amount of profits gained or losses avoided because of the infringement where those can be determined.

11. In order for the EBA to be able to apply levels of fines that take into account the nature and seriousness of the infringement as required in Article 131(2) of MiCA, there needs to be a way to establish first a basic amount of the fine, keeping in mind the maximum amounts. This should be based on an assessment of the severity of the different types of infringements listed in Annexes V and VI from a general viewpoint, i.e. based on the general characteristics of the infringements.
12. Inspired by the type of infringements listed in other sectoral acts, the draft methodology groups the potential MiCA infringements into three categories, relating to: (i) conflicts of interest,

organisational or operational requirements; (ii) disclosure provisions to the public or transparency; and (iii) obstacles to supervisory authorities' activities⁹. This provides a first broad assessment of nature and seriousness of the infringement, and of proportionality.

13. Some of the infringements listed in Annexes V and VI of MiCA are similar to the infringements listed in other EU frameworks for fines, therefore they have been classified consistently with those other frameworks. Other infringements are specific to MiCA, hence their proposed classification has been done consistently with the overall logic and spirit implied by the three categories of severity of the infringements.
14. One specific infringement, which does not feature in the list of infringements under Annexes V and VI of MiCA, but which is included in Article 122(2)(f) and (3)(f), and in Article 123(2), and which refers back to Article 131, relates to the issuer providing incorrect or misleading information to the EBA. This has been classified under the third category: 'obstacles to supervisory activities'¹⁰
15. The draft methodology proceeds to define percentages of the annual turnover of the issuers to be applied for each of the above categories of infringements. These percentages have been inspired by the percentages of annual turnover identified in Article 111 of MiCA regarding administrative penalties imposed by national competent authorities. These percentages were used as a guide here, too, as they already provide an indication of the severity of the different types of infringements on behalf of the co-legislators.

3.2.2. Step 2: Adjustments for aggravating and mitigating factors

16. Considering that the amount of the fine must not just be broadly proportionate to the type of infringement, but also appropriate to the *specific* infringement, the basic amount resulting from Step 1 should be adjusted in Step 2 to reflect the existence of aggravating or mitigating circumstances specific to the particular case at hand.

⁹ The categories proposed here are the same as those in Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, pp. 1–31, ELI: <http://data.europa.eu/eli/reg/2009/1060/oj>) and in Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, pp. 1–59, ELI: <http://data.europa.eu/eli/reg/2012/648/oj>).

¹⁰ While these infringements are not listed in Annexes V and VI to MiCA, they refer independently to the application of fines under Article 131 MiCA.

17. The draft methodology proposes aggravating or mitigating factors based on the factors set out in Article 131(2) MiCA. For those factors where the severity can be quantified *ex ante*, the draft methodology sets specific levels of coefficients¹¹.
18. For the remaining factors of Article 131(2) MiCA, which are not possible to quantify *ex ante*¹², the draft methodology provides that the EBA takes them into account in order to increase or decrease the amount of the fine resulting from the application of the aggravating and mitigating factors in Step 2. This is necessary so that the fine is proportionate to the infringement at hand and so that it achieves its deterrent effect in a manner that is consistent with the EBA's supervisory and consumer protection objectives.

3.2.3. Adjustment to the legal maximum amounts

19. For issuers of s-ARTs, the EBA must ensure that the final fine does not exceed 12.5 % of the annual turnover of the issuer in the preceding business year, or twice the amount of profits gained or losses avoided because of the infringement where those can be determined. For issuers of s-EMTs, the EBA must ensure that the final fine does not exceed 10 % of the annual turnover of the issuer in the preceding business year, or twice the amount of profits gained or losses avoided because of the infringement where those can be determined.
20. Accordingly, any amounts resulting from the application of Step 2 would have to be lowered, if applicable, to meet the above maximum amounts.

¹¹ The criteria laid down in Article 131(2), points (a), (b), (c), (d), (e), (i), (j), and (k) of MiCA can be quantified *ex ante* by using aggravating and mitigating factors together with coefficients inspired by Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.

¹²The criteria laid down in Article 131(2), points (f), (g) and (h) of MiCA.

4. Methodology for setting fines under Article 131 of Regulation (EU) 2023/1114 (MiCA)

- When, following an investigation by an independent investigation officer appointed within the EBA, the EBA considers it appropriate to adopt a decision imposing a fine under Article 131 of MiCA, the EBA has discretion within the limits set by MiCA, taking into account the nature and seriousness of the infringement to determine the amount of the fine. While taking into account all relevant circumstances relating to the breach, in order to ensure transparency and consistency, the EBA applies the following general methodology to determine the appropriate fine, per each infringement committed.

Step 1: Determination of the basic amount of amount of the fine

- The EBA defines the basic amount of the fine as a percentage of the annual turnover of the issuer in the preceding business year, depending on the severity of the infringement, as follows:

Infringements in Annexes V and VI to MiCA	Basic amount
	Percentage of annual turnover of the issuer in the preceding business year
points 2, 3, 4, 5 -7, 19-33, 35-53, 55 - 78, 80-84 and 86 of Annex V points 2-16,18-38, 40-44 and 46 of Annex VI	5%
points 8-13, 15 -18, 54 and 87 of Annex V point 17 of Annex VI	3%
points 1, 14, 34,79 and 85 of Annex V points 1, 39 and 45 of Annex VI Article 122(2)(f) and (3)(f), and 123(2)- providing incorrect or misleading information	2%

Questions for consultation purposes

Q1. Do you have any comments on the proposed classification of infringements based on their severity, as well as on their distribution across the severity scale? Please justify your answers.

Q2. Do you have comments on the level of the proposed percentages for each category of infringements? Please justify your answers.

Step 2: Adjustment for aggravating and mitigating factors

3. The EBA applies the adjustment coefficients set out in the tables below in a cumulative way to the basic amount resulting from the application of Step 1.
4. If more than one aggravating coefficient applies, the difference between the basic amount and the sum of the amounts resulting from the application of all applicable aggravating coefficients is added to the basic amount.
5. If more than one mitigating coefficient applies, the difference between the basic amount and the sum of the amounts resulting from the application of all applicable mitigating coefficients is subtracted from the basic amount.
6. The adjustment coefficients linked to aggravating factors referred to in paragraph 3 are:

Aggravating factors	Coefficients
Infringement committed for more than six months	1.5
Repeated infringement (recurrent instances of a breach that have an 'individual' nature e.g. missing reporting required at regular intervals)	1.1 for each repetition (apply to each individual instance of that breach that has been repeated up to the date of the determination of the fine)
Financial crime occasioned, facilitated or attributable to the infringement	2
Serious or systemic weaknesses in the organisation of the issuer revealed by the infringement, in particular in its procedures, policies and risk management measures	2.2

Aggravating factors	Coefficients
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Infringement committed intentionally	2
Previous infringements by the issuer responsible for the infringements	1.5

7. The adjustment coefficients linked to mitigating factors referred to in paragraph 3 are:

Mitigating factors	Coefficients
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The issuer's senior management can demonstrate that they have taken reasonable measures to prevent the breach	0.7
The infringement has been brought quickly, effectively and completely to EBA's attention	0.4
The issuer has voluntarily taken meaningful measures to prevent the repetition of such an infringement	0.6

Questions for consultation purposes
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Q3. Do you agree with the proposed aggravating and mitigating factors? Please justify your answers.

Q4. Do you agree with the proposed coefficients? Please justify your answers.

8. The EBA may increase or decrease the amount of the fine resulting from the application of the above aggravating and mitigating factors where it considers that the final amount of the fine is disproportionate to the specific infringement(s) concerned based on the circumstances of the specific case and the necessary deterrent effect of the fine (to prevent both the issuer concerned or any other issuer supervised by the EBA from engaging in the same or similar conduct in future), aiming to at least disgorge profits made or losses avoided, where these can be determined. In particular, the factors referred to in Article 131(2), points (f), (g) and (h) of MiCA, and the EBA's supervisory and consumer protection objectives may be taken into account. For the purposes of this provision, an 'issuer' is considered to include all co-issuers in a multi-issuance scheme.

Question for consultation purposes

Q5. Do you have any alternative proposals for ensuring flexibility in determining the final amount of the fine by the EBA BoS? Please justify your answers.

Adjustment based on the MiCA maximum amounts

9. The final amount of the fine is reduced to 12.5% of the annual turnover in the preceding business year of an issuer of an s-ART , or 10% for an issuer of an s-EMT, if it's higher than these amounts and the EBA is not able to determine the profits gained or losses avoided.
10. Where the EBA is able to determine that the profits gained or losses avoided, because of the infringement, are above 12.5% or 10% of the issuer's annual turnover, for the issuer of a s-ART or of a s-EMT, respectively, the final amount of the fine is reduced where necessary to twice the amount of profits gained or losses avoided.

Question for consultation purposes

Q6. Do you have any comments on how the maximum amounts in Article 131(3) and (4) of MiCA are applied under the methodology?

5. Overview of questions for consultation

Q1. Do you have any comments on the proposed classification of infringements based on their severity, as well as on their distribution across the severity scale? Please justify your answers.

Q2. Do you have comments on the level of the proposed percentages for each category of infringements? Please justify your answers.

Q3. Do you agree with the proposed aggravating and mitigating factors? Please justify your answers.

Q4. Do you agree with the proposed coefficients? Please justify your answers.

Q5. Do you have any alternative ideas for ensuring flexibility in determining the final amount of the fine by the EBA? Please justify your answers.

Q6. Do you have any comments on how the maximum amounts in Article 131(3) and (4) of MiCA are applied under the methodology?