London, 08 December 2023

# Response to Consultation Paper: EBA Draft RTS to specify the highly liquid financial instruments in the reserve of assets under MiCAR

The World Gold Council welcomes the opportunity to comment on the EBA's Consultation Paper 'EBA Draft RTS to specify the highly liquid financial instruments in the reserve of assets under MiCAR.

**About the World Gold Council**

The World Gold Council is dedicated to ensuring that gold remains an integral part of the global economy.

We are an association whose 32 members are the world's leading gold mining companies with operations in over 45 countries, and our initiatives impact every aspect of the gold industry. We aim at:

- Improving access to gold by tackling regulatory and infrastructure barriers to gold investment
- Improving understanding of the gold market and the role of gold as an investment asset
- Developing industry standards and improving integrity and trust in gold.

Since we were founded in 1987, the structure and size of the gold industry has changed dramatically. The gold market has almost doubled in size and grown seven-fold in value. Today, gold is increasingly recognised as a mainstream asset that meaningfully contributes to prosperity, financial market stability, and society as a whole.

The World Gold Council's ambition is to further the digital transformation of the global gold market to meet the expectations of today's consumers, investors, and the financial services community. The tokenisation of gold and digitalisation of trading and supply management processes, is essential to the modernisation of the market.

**Gold as an asset class**

Gold has unique properties and is an essential investment for many individual and institutional investors. Private investments in gold account for nearly US$ 3 trillion in holdings, and more than US$ 2 trillion are held in gold reserves by central banks around the world.[1] Traditionally, investors purchase gold in the form of coins, bars, and gold ETFs. Gold tokens introduce an innovative approach to gold investment and offer a significant opportunity to modernise the market.

Several gold-backed tokens are already available to investors.

[1] Source: Gold Demand Trends and Above Ground Stocks, 2021, https://www.goldhub.com

**Consultation**

Below we provide specific feedback to applicable consultation questions.

We appreciate your consideration of our comments and remain at your disposal should you have any questions.

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Yours sincerely,

The World Gold Council

**Responses to selected consultation questions**

**Question 1: Do respondents have any comment on the list of eligible highly liquid financial instruments provided under point (C) of article 1 (1) of these draft RTS?**

The tokenisation of gold creates a new important opportunity for EU savers and investors to capitalise on the benefits of gold. It represents an unmissable chance to digitalise the market, leading to improved accessibility, transparency, and liquidity.

The World Gold Council (WGC) has always recommended that gold is a permissible asset to include in the reserve assets and welcomes the recognition of physical gold and gold-related financial instruments as permissible assets - we recognise the differentiation between funds received and the investment of funds received and how both physical gold and gold-related financial instruments are included the reserves.

1) We welcome the work of the EBA to include gold-related financial instruments as highly-liquid financial instruments to be invested in as part of the reserve of assets.

We see the EBA's expansion of the categorisation of what constitutes highly liquid financial instruments in case of the investment of the reserve of assets as a highly desirable outcome, which, given the characteristics of gold, will allow more investors to reap the benefits gold provides as an asset.

The gold market is global and highly liquid. It is more liquid than several major financial markets, including German Bunds, UK gilts, and European stock markets, and trading volumes – over-the-counter spot and derivative contracts, gold futures traded across various global exchanges, and gold ETFs - are similar to the US short term Treasuries.

There are 108 issuers of gold ETFs (ETCs) globally with 46 of those issuers being European. Globally, the total assets under management for gold ETFs amount to USD 214.4 bn as of Q4 2023. To break this down further, it is  USD 108.9 bn AUM for North America; USD 91.9 bn AUM for Europe; USD 9.6 bn AUM for Asia as of Q4 2023.

Given the above characteristics of gold and MiCA requirements, expanding the group of highly liquid financial instruments to include gold-related financial instruments is a natural step and a sound approach.

We would also like to highlight that allowing physical gold, and not only gold related financial instruments (such as for example ETFs), as an eligible investment asset would benefit the market. We would highly recommend that this be considered if the MiCAl level 1 text is revised in the future.

2) The WGC notes an issue with how the definition of highly liquid financial instruments in the text of the regulation accounts for commodity-related financial instruments. The current definition does not sufficiently convey EBA's reasoning for including commodities that meet LCR requirements and their related financial instruments as highly liquid financial instruments. Therefore, to ensure legal clarity, we would propose the following change to Article 1-paragraph 1-point c(iii):

(iii) where the tokens are not referenced to official currencies, other financial instruments that are either ***related to any*** assets***, including when those assets are commodities,*** referenced by the tokens or derivatives relating to the assets referenced by the tokens.

**Question 2: Do respondents have any comment on the general and operational requirements to be met by highly liquid financial instrument provided under points (A) and (B) of article 1 (1) of these draft RTS? Please explain if some criteria is expected to be challenging to be met in practice.**

N/A

**Question 3: Do respondents find the treatment for hedging derivatives under article 2 clear to be applied?**

N/A

**Question 4: Do respondents think that the draft RTS create any impediment for issuers to ensure a good control of the correlation between the highly liquid financial instruments and the assets referenced? This is particularly relevant for the case of tokens referenced to assets other than official currencies.**

No. For gold tokens, allowing for 100% of the reserve of assets to consist of gold would allow for the most direct correlation between the highly liquid financial instruments and the assets referenced.

**Question 5: Do respondents have any concern about the feasibility for issuers to have the minimum amount of reserve of assets considering the list of eligible highly liquid financial instruments, the one-to-one currency matching requirement in Regulation (EU) 2023/1114 and the concentration limits under Article 3 of these draft RTS? This is particularly relevant for tokens referenced to official currencies.**

N/A

**Question 6: Do respondents have any concern about the operational feasibility of the look through approach envisaged in paragraph 3 of the Article 3 of these draft RTS? If yes, please elaborate your answer and specify the reasons for the concerns.**

N/A

**Question 7: Do respondents have any comment with regards to the unwind mechanism proposed under Article 4 of these draft RTS and the related examples provided?**

N/A

**Question 8. Do respondents have any general comment about the interaction of these draft RTS with the business modem and the continuity of the business of these activities?**

N/A

**Question 9: Do respondents find any provision in these draft RTS confusing or difficult to understand?**

N/A

**Question 10. Do respondents have any comment on the impact assessment provided**

In the case of the potential unintended effects, we mostly agree with the analysis by the EBA. However, in the case of gold, it is worth noting that gold is traditionally considered a safe asset, in particular in times of financial instability. Due to this countercyclical effect of gold, we don't expect the disadvantages highlighted by the EBA to be as impactful on gold tokens as it would on other commodities. On the contrary, during the times of financial instability and increased economic risks, gold provides a liquid and safe asset for investors.