

5 July 2024

EBA statement

The EBA expects issuers and offerors of asset-referenced and e-money tokens to comply promptly with MiCAR and reminds consumers of risks

The regulatory framework for the issuing, offering to the public and seeking admission to trading of ARTs and EMTs (hereafter ‘ART/EMT activities’) in the European Union (EU) established under Regulation (EU) 2023/1114 on markets in crypto-assets (MiCAR) has come into application.¹

The EBA sets out in this statement matters for the attention of issuers, offerors and persons seeking admission to trading of ARTs and EMTs, for consumers, other stakeholders and for competent authorities.

Issuers, offerors and persons seeking admission to trading

The EBA expects any person who intends to commence ART/EMT activities to comply fully with MiCAR as from 30 June 2024.

Issuers who have issued ARTs in accordance with applicable law prior to 30 June 2024 may continue to do so in accordance with the transitional arrangements set out in Article 143(4) and (5) MiCAR. No similar transitional arrangement applies for EMTs.

The regulatory and implementing technical standards and guidelines applicable to such activities are available on the EBA’s [website](#). The EBA urges issuers and offerors to have regard to these documents and adjust as if those measures were fully applicable, in the case of technical standards pending their adoption by the European Commission and publication in the Official Journal of the European Union. This includes measures relating to white papers, governance, complaints handling, own funds, reserve assets, recovery and redemption plans.

Consumers

Consumers considering buying a crypto-asset that aims to maintain a stable value by reference to

¹ See Title III (ARTs) and Title IV (EMTs) of MiCAR: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023R1114&qid=1687014462478>

an official currency (an EMT), or right(s) or value(s) or a combination thereof (an ART), should check whether the issue, offer, or admission to trading is carried out in accordance with MiCAR. This information should be signaled clearly in the white paper for the crypto-asset and on the issuer's/offeree's/trading platform's website, and also present in the register of ESMA (when available). Authorisation information may also be verified on the website of the relevant competent authority.

If the issue, offer, or admission to trading of an ART or EMT is not carried out in accordance with MiCAR, consumers should be aware that the safeguards set out in MiCAR² do not apply, and consumers should be extremely cautious in acquiring such crypto-assets. Examples of where the offer to the public in the EU or admission to trading within the EU of an ART or EMT is not in accordance with MiCAR include: (i) where an EMT is issued by an entity in the EU that does not hold an authorisation as a credit institution or electronic money institution, (ii) where an ART is issued by an entity in the EU that is not a credit institution and has not obtained authorisation under MiCAR, (iii) where an entity who is not the issuer (of the ART or EMT) has not first obtained the written consent of the issuer.

More generally, before acquiring any type of crypto-asset, consumers are reminded to have regard to the things to 'know and check' set out in the joint-ESA [warning on crypto-assets](#).

Other stakeholders

All stakeholders providing services related to crypto-assets (exchange, transfer, etc.) should be aware that as from 30 June 2024, all persons carrying out ART/EMT activities should comply with MiCAR.

This means that stakeholders should set up as soon as possible procedures in order to assess compliance with MiCAR of ARTs/EMTs for which they offer related services and should refrain, as from 30 June 2024, from carrying out services that constitute offering to the public, seeking admission to trading or placing non-compliant ARTs/EMTs.

Competent authorities

The EBA expects competent authorities who become aware that a person has commenced or plans to commence ART/EMT activities to bring, on a best-efforts basis, to that person's attention: the MiCAR requirements; the EBA's guidelines and technical standards; and other applicable regulatory measures, including in the areas of anti-money laundering and counter-terrorist financing (AML/CFT) and operational resilience.

Competent authorities are encouraged to make information available on their websites describing in a clear and accessible manner (i) the fact that ARTs and EMTs are regulated products that can be provided only in accordance with the requirements in MiCAR, (ii) the rights and protections

² See Title III for ARTs and Title IV for EMTs, including regarding the disclosure of information, redemption, and complaints handling.

offered to holders of ARTs and EMTs by MiCAR, (iii) any relevant sources of information, such as registers, to which reference may be made by consumers and other relevant persons.

Next steps

The EBA observes that crypto-assets are inherently ‘borderless’ and thus close cooperation between competent authorities, the EBA and the other European Supervisory Authorities (ESAs) is expected to ensure that MiCAR is enforced in a consistent, timely and effective manner to ART/EMT activities. The EBA will continue to facilitate a proactive and on-going dialogue between EU competent authorities on authorisation decisions and market developments with a view towards fostering supervisory convergence, contributing to a level playing field across the EU, and facilitating prompt enforcement of MiCAR.

Legal background

MiCAR establishes a regime for the regulation and supervision of crypto-asset issuance, offering, admission to trading, and crypto-asset service provision in the EU. The regulatory regime for the issuing, offering to the public and admission to trading of ARTs and EMTs applies from 30 June 2024 (the application date). The remaining provisions apply from end-December 2024.

On 12 July 2023, the EBA encouraged timely preparations for the application of MiCAR to ARTs and EMTs (the transition phase statement)³, and set out ‘guiding principles’ to which issuers and offerors of ARTs and EMTs, and competent authorities, could have regard until 30 June 2024.

This statement replaces the 2023 statement.

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https://www.eba.europa.eu/sites/default/files/document_library/Publications/Other%20publications/2023/Statement%20on%20preparatory%20steps%20towards%20application%20of%20MiCAR/1057527/Statement%20on%20timely%20preparatory%20steps%20towards%20the%20application%20of%20MiCAR%20to%20asset-referenced%20and%20e-money%20tokens.pdf