

EBA/CP/2024/15

15 July 2024

Consultation Paper

Draft Guidelines

on templates to assist competent authorities in performing their supervisory duties regarding issuers' compliance under Titles III and IV of Regulation (EU) 2023/1114

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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 15 October 2024. 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

Regulation (EU) 2023/1114 of the European Parliament and of the Council on Markets in Crypto-assets (MiCAR) regulates the offering to the public and admission to trading of asset-referenced tokens (ARTs), e-money tokens (EMTs) and other type of crypto-assets, as well as the provision of crypto-asset services in the EU. Inter alia, MiCAR sets out a wide range of regulatory requirements, including authorisations, conduct and prudential requirements for issuers of ARTs and EMTs, and mandates issuers of certain tokens to report certain data points to the competent authorities under Article 22 MiCAR.

Data points that issuers are required to report under Article 22 MiCAR would not allow competent authorities and the EBA to discharge their supervisory tasks under Titles III and IV of MiCAR. Specifically, the EBA has identified data gaps that, left unaddressed, would impede the supervision of issuers' compliance with the own funds and liquidity requirements laid down in MiCAR. In addition, these data gaps would prevent the EBA from assessing the significance criteria specified in Articles 43 and 56 of MiCAR and from carrying out the annual reassessment of significance pursuant to Articles 43(8) and 56(8) of MiCAR.

For these reasons, the EBA has developed these draft guidelines to specify templates that issuers of ARTs and EMTs should use to provide competent authorities and the EBA with the necessary information. These templates comprise information on number of holders, market capitalisation and composition of the reserve of assets, transactions per day, own funds, liquidity, and entities involved in the custody, operation, or distribution of the tokens. By setting out common formats, templates and instructions for the provision of data using these templates, including common reference and remittance dates and common thresholds, these guidelines aim to ensure that competent authorities are able to monitor compliance by issuers of ARTs and EMTs with critical requirements under MiCAR. In addition, these guidelines include common templates and instructions that issuers should use to collect data from the relevant Crypto-Asset Service Providers (CASPs).

These draft guidelines aim to ensure a common supervisory approach on the data requests with consistent and pre-defined templates across Member States, thus enhancing supervisory convergence and ensuring a level playing field across the internal market.

Next steps

The draft guidelines are being publicly consulted for a three-month period. It is expected that they will apply from **dd.mm.yyyy**, two months after the publication of its translation in all official languages of the EU.

3. Background and rationale

1. Regulation (EU) 2023/1114 of the European Parliament and of the Council on Markets in Crypto-assets (MiCAR) regulates the offering to the public and admission to trading of asset-referenced tokens (ARTs), e-money tokens (EMTs) and other type of crypto-assets, as well as the provision of crypto-asset services in the EU. MiCAR entered into force on 29 June 2023 and will apply from 30 December 2024, except for Titles III and IV regarding the offering to the public and the admission to trading of ARTs and EMTs, that apply from 30 June 2024.
2. The objectives of MiCAR are to harmonise the legal framework applicable to offerors or persons seeking the admission to trading of ARTs and EMTs, to ensure the proper functioning of markets in crypto-assets, market integrity and financial stability in the EU, and to guarantee high standard of protection for token holders¹. In particular, MiCAR aims to tackle risks that the wide use of ARTs and EMTs could pose to financial stability, the smooth operation of payment systems, monetary policy transmission and monetary sovereignty².
3. To this end, MiCAR sets out a wide range of regulatory requirements, including authorisations, conduct and prudential requirements for issuers of ARTs and EMTs. MiCAR also mandates issuers of certain tokens to report certain data points to the competent authorities under Article 22 MiCAR.
4. However, the data points that issuers are required to report under Article 22 MiCAR relate specifically to some limited information that would only allow competent authorities to monitor: (i) the volume of the activity of ARTs, including information on the number of holders, value of the token issued and on the volume of the transactions made with such tokens; (ii) the compliance with (some of) the requirements applicable to the reserve of assets³; and (iii) the activity volume of ARTs for the purpose of assessing factors relevant to inform decisions under Article 23 MiCAR on the possibility to limit the issuance of certain ARTs when the volume and value of transactions associated to their use as a means of exchange exceed certain thresholds laid down in Article 23 MiCAR. This data would not equip competent authorities with the information they need to perform essential supervisory tasks, notably to monitor compliance by issuers of ARTs and EMTs

¹ See Recital 112 of MiCAR.

² See Recital 5 of MiCAR.

³ Article 22 MiCAR requires issuers of certain tokens to report the following data: (a) the number of holders; (b) the value of the ART issued and the size of the reserve of assets; (c) the average number and average aggregate value of transactions per day during the relevant quarter; and (d) an estimate of the average number and average aggregate value of transactions per day during the relevant quarter that are associated to uses of the ART as a means of exchange within a single currency area.

with the own funds and liquidity requirements laid down in Articles 35, 36, 38, 54 and 58 of MiCAR.

5. In addition, when preparing the EBA's response to the Call for Advice (CfA) on two delegated acts under MiCAR⁴ and in the context of the development of various consultation papers under MiCAR⁵, the EBA identified other data gaps. As specified in the CfA, these gaps would not only impact on competent authorities' ability to supervise compliance with MiCAR obligations, thus hampering an effective supervision across the EU, but would also limit the EBA's ability to assess the significance criteria specified in Articles 43 and 56 MiCAR, to carry out the annual reassessment of significance pursuant to Articles 43(8) and 56(8) MiCAR and to undertake general supervisory activities under Article 117 MiCAR.
6. The EBA has evaluated different options to address the identified data gaps. First, the EBA has assessed whether the powers available to individual competent authorities and the EBA under Articles 94 and 122 MiCAR would be sufficient to collect the information and documents that are necessary to exercise their supervisory powers under Title III and IV of MiCAR. The EBA acknowledges that data could be gathered by competent authorities on an ad hoc discretionary basis. However, an ad hoc approach would be more burdensome particularly for issuers of ARTs and EMTs, as the information requested by competent authorities may differ across the EU, both in terms of templates and timeframes. Moreover, the same issuer may receive separate requests from different competent authorities in the EU. A coordinated and consistent approach for the collection of this data would be more efficient in the benefit not only of issuers but also of competent authorities. It would also underpin the objectives of the single rulebook and ensure supervisory convergence.
7. Second, the EBA has assessed the possibility to use its own initiative powers pursuant to Article 16 of Regulation (EU) No 1093/2010 to lay down a harmonized framework with common formats and templates, that would complement the draft Implementing Technical Standards on the reporting of asset-referenced tokens under Article 22(7) of MiCAR and on e-money tokens denominated in a currency that is not an official currency of a Member State pursuant to Article 58(3) of that Regulation⁶ (hereinafter, the draft ITS). This option would support the EBA when pursuing its statutory tasks laid down in Article 1(5) of the Regulation (EU) No 1093/2010, including: (i) improving the functioning of the internal market, including, a sound, effective and consistent level of supervision; (ii)

⁴ [EBA advice on MiCAR CfA on significance criteria and supervisory fees.pdf \(europa.eu\)](#)

⁵ These are: the draft RTS to specify the minimum contents of the liquidity management policy and procedures under Article 45(7)(b) of Regulation (EU) 2023/1114; the draft RTS to further specify the liquidity requirements of the reserve of assets under Article 36(4) of Regulation (EU) 2023/1114; the draft RTS to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) of Regulation (EU) 2023/1114; and the draft RTS to specify the procedure and timeframe to adjust its own funds requirements for issuers of significant ARTs or of EMTs subject to the requirements set out in Article 45(5) of Regulation (EU) 2023/1114 on markets in crypto-assets.

⁶ See EBA/CP/2023/32.

ensuring the integrity, transparency, efficiency and orderly functioning of financial markets; (iii) preventing regulatory arbitrage and promoting equal conditions of competition; (iv) enhancing customer and consumer protection; and (v) enhancing supervisory convergence across the internal market. In addition, by issuing these guidelines the EBA would further enhance cooperation with competent authorities with a view to building a common culture and consistent supervisory practices and to ensuring uniform procedures in accordance with Article 95(8) MiCAR.

8. The own initiative guidelines provide templates to ensure that the information requested by competent authorities is consistent and harmonised across the EU. These templates would assist competent authorities in exercising their supervisory powers under Title III and IV of MiCAR, but are without prejudice to competent authorities' ability to request any other information as may be appropriate in the discharge of their supervisory tasks. The information submitted by issuers to competent authorities in accordance with the templates provided in these guidelines would also facilitate competent authorities in providing the EBA with the data necessary to carry out the significance assessment of ARTs and EMTs and would support the smooth transfer of supervisory responsibilities from competent authorities to the EBA on issuers of ARTs or EMTs classified as significant. Moreover, these guidelines would ensure that the information submitted by competent authorities to the EBA is already harmonised, thus ensuring a level-playing field for the different issuers supervised by the EBA. Finally, by ensuring the data is reported in a structured, continuous and harmonised manner by both competent authorities and issuers, these guidelines would facilitate the supervisory role of the EBA under Title VII, Chapter 4 of MiCAR, thus further harmonising the level playing field.
9. As such, as further specified in these guidelines, issuers of ARTs and EMTs should use the templates included in these guidelines to provide the information necessary to allow competent authorities and the EBA, where applicable, to monitor the compliance with the requirements applicable to the reserve of assets and the requirements on own funds and liquidity of the reserve of assets laid down in MiCAR. In addition, issuers of e-money tokens denominated in a currency that is an official currency of a Member State should also provide the same data points that other issuers are required to submit under Article 22 MiCAR so to ensure the information necessary to perform the significance assessment is available to the EBA.
10. Therefore, the issuance of own initiative guidelines is the EBA's preferred way forward for the collection of the data that competent authorities and the EBA may need to carry out their supervisory tasks under MiCAR until the Regulation is reviewed in accordance with Articles 140 and 142 MiCAR, and revised to include additional information in ITS.
11. To make the process more efficient and ensure the timely data availability for the performance of supervision tasks under MiCAR, these guidelines align the frequency as well as the reference and remittance dates for the provision of the information with those laid down in the draft ITS.

12. The remainder of this section explains the rationale for the data points included in the guidelines.

Data required to monitor compliance with own funds requirements

13. Issuers of ARTs (other than credit institutions) have to comply with the own funds requirements set out in Article 35 MiCAR. As in certain cases the minimum own funds requirements for issuers of ARTs depends on the average amount of the reserve of assets or the fixed overheads, the minimum amount of own funds requirements may fluctuate over time. The same is valid for e-money institutions issuing significant EMTs and e-money institutions issuing EMTs that are required by the competent authority to apply own funds requirements in accordance with Article 58(2) MiCAR.

14. The guidelines should specify the data on own funds that competent authorities need to monitor compliance with said requirements effectively. In particular, the guidelines specify templates for the collection of the following data points from issuers of ARTs other than credit institutions and issuers of EMTs that are subject to own funds requirements under MiCAR:

- a. the amount of own funds at reference date, including the amount of deductions;
- b. the average amount of the reserve of assets, calculated over the preceding six months;
- c. the quarter of the fixed overheads of the preceding year;
- d. the amount of own funds as a percentage of the average amount of the reserve of assets; and
- e. the amount of additional own funds requirements.

Data required to monitor compliance with the reserve of assets and liquidity requirements

15. Pursuant to Article 36 MiCAR, issuers of ARTs are to constitute and maintain at all times a reserve of assets that is operationally segregated from their estate. Article 36(4) further mandates the EBA, in close cooperation with ESMA and the ECB, to develop draft regulatory technical standards further specifying the liquidity requirements, taking into account the size, complexity and nature of the reserve of assets and of the ART itself. In accordance with Article 58(1) and (2) MiCAR, the same requirements apply to e-money institutions issuing significant EMTs and e-money institutions issuing non-significant EMTs that are required by the competent authority to have a reserve of assets.

16. To enable competent authorities and the EBA to fulfil effectively their supervisory duties, in particular to assess the maturity profile of the reserve of assets, information on additional liquidity monitoring metrics (maturity ladder) is necessary. This data is especially necessary to understand the maturity transformation of the funds received upon issuance of the tokens, whose redemption request may arise at any time, in order to flag any potential maturity mismatches between the reserve of assets and potential redemption requests. Ultimately, this data will allow competent authorities to assess the capacity of the reserve of assets to meet redemption requests for various time horizons. In addition to this, the maturity ladder will help to undertake the liquidity stress testing that is required under Article 45(4) of MiCAR in order to assess the need of potential strengthening of liquidity requirements. Moreover, the maturity ladder will provide the information needed to assess the significance criteria laid down in Article 43(f) MiCAR and in the Commission Delegated Regulation (EU) 2024/1506 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant.
17. Therefore, to ensure that competent authorities have available data to assess conformity with these requirements, these guidelines include a maturity ladder template composed of 12 time-buckets including the amounts of the reserve assets according to their contractual maturity, with the following granularity:
 - a. breakdown of the reserve of assets by asset class;
 - b. breakdown of reverse repos, repos and collateral swaps by underlying collateral;
 - c. breakdown of derivatives by underlying hedged asset.
18. In addition, to enable competent authorities to monitor effectively compliance with the requirements on the reserve of assets and its composition for EMTs denominated in a currency that is an official currency of a Member State, where these requirements are applicable, these guidelines include templates to collect the following data:
 - d. composition of the reserve of assets by type of assets and maturities; and
 - e. composition of the reserve of assets by counterparty/issuer.

Data required for the significance assessment

19. In its response to the CfA, the EBA highlighted some data gaps that would affect its ability to perform the significance assessment of ARTs and EMTs as laid out, respectively, in Articles 43 and 44 and in Articles 56 and 57 of MiCAR. These gaps would prevent the EBA from assessing the criteria laid down in letters (e) and (f) of Article 43(1) MiCAR. In addition, the EBA would not be in a position to assess whether issuers of ARTs and EMTs fulfil the

criterion laid down in letters (b), (d) and (g) of Article 43(1) MiCAR. Finally, as the reporting obligations under Article 22 MiCAR do not cover issuers of EMTs referencing EU currencies, the EBA would not have the information necessary to assess and re-assess the significance criteria specified in Articles 43 and 56 of MiCAR and in the Commission Delegated Regulation (EU) 2024/1506.

20. For these reasons, pursuant to Articles 43(4) and 56(3) MiCAR and following the abovementioned Commission Delegated Regulation (EU) 2024/1506, the draft guidelines include templates for the collection of the following data points:

- f. For issuers of ARTs and EMTs, information on:
 - i. the value of the token and its market capitalization, both at EU level and on an international scale;
 - ii. their ownership structure, including information on acquisitions and disposals of qualifying holdings during the relevant period;
 - iii. their designation as 'gatekeepers' of 'core platform services' in accordance with Regulation (EU) 2022/1925;
 - iv. the issuance of other ARTs or EMTs, and the provision of crypto-asset services; and
 - v. the estimated market share of value of cross-border transactions in ARTs or EMTs into the Union and from the Union that are associated to uses as a means of exchange.

- b. In addition, for issuers of EMTs referencing EU currencies, information on:
 - i. the number of holders of the EMT;
 - ii. the value of the EMT and the size of the reserve of assets; and
 - iii. the average number and average aggregate value of transactions in EMTs per day during the relevant quarter.

Availability of data

21. Finally, considering that issuers may not possess the data necessary for competent authorities and the EBA to supervise compliance with certain requirements or for the EBA to assess the requirements laid down in Articles 43(4) and 56(3) MiCAR these guidelines also provide for templates and instructions (respectively in Annex III and IV) that would support issuers in the collection of data from the relevant Crypto-Asset Service Providers (CASPs). These templates would ensure that issuers' requests to CASPs are consistent and harmonised across the EU, both in terms of format and frequency.

22. For these reasons, these guidelines include templates that issuers should use for the collection of the following data points from their respective CASPs:

- g. Information on holders, so that issuers of EMTs referencing EU currencies can calculate the number of holders of the EMT;
- h. Information on transactions, so that issuers of EMTs referencing EU currencies can calculate the average number and average aggregate value of transactions per day during the reporting period;
- i. Information on transactions, so that issuers of ARTs and EMTs can calculate the value of cross-border transactions in ARTs or EMTs into the Union and from the Union that are associated to uses as a means of exchange; and
- j. Information on token held per CASP, assisting issuers of ARTs and EMTs to calculate their required size of reserve of assets.

23. When CASPs share personal information on holders with the issuers, issuers should follow the same approach as specified for them in the draft ITS, how to handle such data. Issuers should implement in their internal policies a maximum retention period for the personal data of the individual holders shared by the CASPs. Considering the objective of sharing such information, this maximum retention period should not exceed 5 years from the date of obtaining the personal data. Once the personal data has been used by the issuer to prepare the templates, it is recommended for issuers to store this information using anonymisation/pseudonymisation of such data. In any case, national conditions for the processing of such personal data, if any, should apply.

4. Draft guidelines

EBA/GL /20XX/XX

DD Month YYYY

Draft Guidelines

on templates to assist competent authorities in performing their supervisory duties regarding issuers' compliance under Titles III and IV of Regulation (EU) 2023/1114

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁷. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities should comply with these guidelines by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/202x/xx'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

⁷ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

2. Subject matter, scope and definitions

Subject matter

5. These guidelines specify the content and uniform formats for the submission of information used by competent authorities when exercising their supervisory powers under Article 94(1)(a) and Titles III and IV of the Regulation (EU) 2023/1114⁸ and by the EBA when exercising its supervisory powers under Article 122 of that Regulation.

Scope of application

6. These guidelines apply in relation to the exercise of supervisory powers of competent authorities in the context of ensuring compliance of issuers of asset-referenced tokens (ARTs) and e-money tokens (EMTs) with the requirements set out in Titles III and IV of Regulation (EU) 2023/1114.

Addressees

7. These guidelines are addressed to competent authorities as defined in Article 3(1) point (35) of Regulation (EU) 2023/1114. These guidelines are also addressed to issuers of ARTs and issuers of EMTs.

Definitions

8. Unless otherwise specified, terms used and defined in Regulation (EU) 2023/1114 have the same meaning in the guidelines.

⁸ 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).

3. Implementation

Date of application

9. These guidelines apply from **dd.mm.yyyy**.

4. Templates, frequency and format

4.1 Templates for issuers of ARTs and EMTs

Information to monitor compliance with the own funds requirements

10. For the purposes of monitoring compliance with the own funds requirements in accordance with Articles 35 and 58 of Regulation (EU) 2023/1114, issuers of ARTs and EMTs subject to own funds requirements should report to the competent authority the information laid down in template U 05.01 and U 05.02 of Annex I, completed in accordance with the instructions set out in Annex II.

Question for Public Consultation:

1. Do you have any comments on template U 05.01 on how issuers should report on their own funds requirements? Do you have any comments on template U 05.02 on how issuers should report on the composition of their available own funds?

Information to monitor compliance with the reserve of assets and liquidity requirements

11. For the purposes of monitoring compliance with the reserve of assets and liquidity requirements in accordance with Articles 36, 37, 38 and 58 of Regulation (EU) 2023/1114:
- a. issuers of ARTs, e-money institutions issuing significant EMTs and e-money institutions issuing non-significant EMTs that are required by the competent authority to have a reserve of assets should report to the competent authority the information on the market value, or, where applicable, on the amount of the assets, inflows and outflows per token as further specified by template U 06.00 of Annex I, completed in accordance with the instructions set out in Annex II;
 - b. in addition, issuers of EMTs denominated in a currency that is an official currency of a Member State subject to the requirement to hold a reserve of assets pursuant to Article 58(1) and (2) of Regulation (EU) 2023/1114 should report to the competent authority the information laid down in templates U 03.01 and U 03.02 of Annex I, completed in accordance with the instructions set out in Annex II.

Question for Public Consultation:

2. Do you have any comments on template U 06.00 on how issuers should report on their reserve of assets by maturity ladder?

Question for Public Consultation:

3. To note, templates U 03.01 and U 03.02 in these guidelines are the same templates as templates S 03.01 and S 03.02 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft ITS, to EMTs referencing to EU currencies for these templates on the composition of the reserve of assets with these guidelines?

Information necessary for the significance assessment

12. For the purposes of ensuring that the competent authorities are able to provide to the EBA the relevant data to assess the significance criteria specified in Articles 43 and 56 of Regulation (EU) 2023/1114:

- a. issuers of ARTs and EMTs should report to the competent authority the information laid down in templates U 07.01, U 07.02 and U 07.03 of Annex I, completed in accordance with the instructions set out in Annex II;
- b. in addition, issuers of EMTs denominated in a currency that is an official currency of a Member State should report to the competent authority the information laid down in templates U 01.00, U 02.00, U 04.01, U 04.02, U 04.03 and U 04.04 of Annex I, completed in accordance with the instructions set out in Annex II.

Question for Public Consultation:

4. Do you have any comments on templates U 07.01, U 07.02 and U 07.03 on how issuers should report information needed to assess the significance criteria as specified in Articles 43 and 56 of MiCAR?

Question for Public Consultation:

5. To note, templates U 01.00, U 02.00, U 04.01, U 04.02, U 04.03 and U 04.04 in these guidelines are the same templates as templates S 01.00, S 02.00, S 04.01, S 04.02, S 04.03 and S 04.04 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft ITS, to EMTs referencing to EU currencies for these templates related to number of holders; value of the token issued and size of the related reserve of assets; and information on transactions per day with these guidelines?

Information necessary following the classification of an ART or EMT as significant

13. Following the notification of the EBA final decision on significance assessment, and where the supervisory responsibilities on the issuer(s) of the ART or EMT are transferred to the EBA, the templates and instructions referred to in paragraphs 10, 11 and 12 will be used by the EBA to collect the data necessary to supervise compliance with the own funds, reserve of assets and liquidity requirements and to carry out the annual reassessment of significance pursuant to Articles 43(8) and 56(8) of Regulation (EU) 2023/1114.

4.2 Proportionality, frequency and format

14. To ensure the proportional application of the guidelines, competent authorities should collect the information laid down in templates U 01.00, U 02.00, U 03.01, U 03.02, U 04.01, U 04.02, U 04.03, U 04.04, U 07.01, U 07.02 and U 07.03 of Annex I from issuers of ARTs and EMTs with an issue value higher than EUR 100 000 000.

15. Competent authorities may require issuers with an issue value of less than EUR 100 000 000 to report the data included in the templates mentioned in the previous paragraph. In such cases, issuers should use the same templates and instructions as laid down in Annex I and II of these guidelines.

16. Issuers should submit the information laid down in paragraphs 10, 11, 12 and 13 of these guidelines on a quarterly basis, on the following reference and remittance dates:

- a. quarterly reporting reference dates: 31 March, 30 June, 30 September and 31 December;
- b. quarterly reporting remittance dates: 12 May, 11 August, 11 November and 11 February.

17. For the purposes of reporting according to paragraph 13, the information included in paragraphs 10, 11, and 12 of these guidelines will be submitted to the EBA on a quarterly basis, on the same reference and remittance dates as laid down in the previous paragraph.

18. The first reference date of reporting of the information included in templates U 05.01, U 05.02 and U 06.00 of Annex I should be 30 June 2025.

19. The first reference date of reporting of the information included in templates U 01.00, U 02.00, U 03.01, U 03.02, U 04.01, U 04.02, U 04.03, U 04.04, U 07.01, U 07.02 and U 07.03 of Annex I should be the corresponding quarter in which the issue value of the ART or EMT is higher than the threshold referred to in paragraph 14 or in which the competent authority has required issuers to report this information.

20. The reporting referenced in the previous paragraph should last until three consecutive quarters passed in which the threshold has not been hit.

21. Issuers should submit the information referred to in these guidelines in the data exchange formats and representations specified by the competent authorities and, respecting the data point definition included in the data point model and the validation formulae specified in Annex V, as well as the following specifications:

- a. Information that is not required or not applicable should not be included in a data submission;
- b. Numeric values should be submitted as facts according to the following:
 - i. data points with the data type 'Monetary' should be reported using a minimum precision equivalent to ten thousands of units;
 - ii. data points with the data type 'Integer' should be reported using no decimals and a precision equivalent to units;
- c. competent authorities should require issuers of ARTs and EMTs to associate the data submitted in accordance with these guidelines with the information listed and specified under paragraph 8 of Annex II.

4.3 Templates for collecting the necessary information from crypto-asset service providers

22. For the purposes of the submission of the data points laid down in these guidelines, issuers should require crypto-asset service providers (CASPs) that provide services related to ARTs and EMTs to provide them with the information necessary to prepare the submission of the data points referred to in these guidelines.

23. To collect the necessary information from the relevant CASPs, issuers should provide them with the templates and instructions specified in Annex III and Annex IV, respectively.

Question for Public Consultation:

6. Do you have any comments on template U 09.04 on how CASPs should report to issuers the cross-border transactions that are associated as a means of exchange?

Question for Public Consultation:

7. To note, CASPs templates U 08.00, U 09.01, U 09.02, U 09.03 and U 10.00 in these guidelines are the same templates as templates S 06.00, S 07.01, S 07.02, S 07.04 and S 08.00 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft

ITS, to EMTs referencing to EU currencies for these templates related to information on holders; information on transactions; and information on token held by the CASPs with these guidelines?

Annex I – Templates for issuers of ARTs and EMTs

Annex II – Instructions for issuers of ARTs and EMTs

Annex III – Templates for CASPs

Annex IV – Instructions for CASPs

Annex V - DPM and validation rules

Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

As per Article 16(2) of Regulation (EU) No 1093/2010 (EBA Regulation), any guidelines and recommendations developed by the EBA are to be accompanied, where appropriate, by an Impact Assessment (IA), which analyses 'the potential related costs and benefits'. This analysis presents the IA of the main policy options included in this Consultation Paper on the draft guidelines on templates to assist competent authorities in performing their supervisory tasks under Titles III and IV of Regulation (EU) 2023/1114 ('the draft guidelines') and to promote convergence in supervisory practices in accordance with Regulation (EU) No 1093/2023 and Regulation (EU) 2023/1114. This IA is high level and qualitative in nature.

A. Problem identification

While MiCAR has established a comprehensive set of regulatory requirements, including authorisations, conduct and prudential requirements for issuers of ARTs and EMTs, the EBA has identified some areas in which data is required in order for competent authorities to perform effectively their supervisory tasks under MiCAR. Absent such data, the capacity of competent authorities to supervise compliance with certain critical MiCAR obligations, including regarding own funds and liquidity, could be undermined. Eventually, this would hamper an effective supervision across the EU and in turn it may weaken the objectives of MiCAR of: (i) ensuring a high level of consumer and investor protection and market integrity in the crypto-asset markets; and (ii) supporting innovation and fair competition⁹. Pursuant to Regulation (EU) No 1093/2010, the EBA can develop guidelines to pursue its statutory tasks of (i) improving the functioning of the internal market, including, a sound, effective and consistent level of supervision; (ii) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets; (iii) preventing regulatory arbitrage and promoting equal conditions of competition; (iv) enhancing customer and consumer protection; and (v) enhancing supervisory convergence across the internal market. Additionally, the EBA's ability to assess the significance criteria specified in Article 43 MiCAR could be undermined absent consistent data from national competent authorities.

B. Policy objectives

The general objective of the guidelines is to lay down a harmonised framework of information necessary for competent authorities to carry out their supervisory duties. As such, the guidelines provide a framework based on common formats, templates and instructions for

⁹ See Recital 6 of MiCAR.

issuers, including common reference and remittance dates, with a view to ensure harmonised supervision across the EU.

C. Baseline scenario

The baseline scenario is the situation where Regulation (EU) 2023/1114 only facilitates the provision of limited data, without any further specification. The following aspects have been considered when developing the draft guidelines.

D. Options considered

The EBA has considered two policy options.

- Option 1a. Rely on the supervisory powers available to competent authorities and the EBA for additional information and data requests on an ad-hoc basis and in a non-pre-defined reporting structure.
- Option 1b. Issue own initiative guidelines to harmonise templates for issuers to provide the relevant information that would allow competent authorities to carry out their supervisory tasks under MiCAR.

By leveraging the powers available to competent authorities and the EBA under Articles 94, 117 and 122 MiCAR, additional data could be gathered on an ad hoc discretionary basis. However, Option 1a would be more burdensome for issuers of ARTs and EMTs, as the information requested by competent authorities may vary across the EU, both in terms of templates, volume and submission timeframes. In addition, issuers of ARTs and EMTs may be required to report certain data sourced by Crypto-Asset Service Providers (CASPs) with little notice, which could hamper the ability of CASPs to submit the necessary data on time for the issuers to comply with the request of the competent authority. Furthermore, for the significance assessment of the ARTs and EMTs issuers, the necessity of additional data has been identified already and it can be extended to EMTs issuers referencing EU currencies. In order for the evaluation to be completed on time, these data gaps require to be filled by supplementary requests, which may vary throughout the Member States and may be subject to tight deadlines. The issuers may bear an increased burden as a result and potentially be subject to different data reporting templates and timeframes, thus creating an uneven playing field.

By issuing own initiative guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010, the EBA would be able to develop templates that would foster a harmonised framework and complement the draft ITS. In addition, as Article 95(8) MiCAR defines the close cooperation between EBA and the competent authorities for common supervisory culture and consistent supervisory practices and ensuring uniform procedures, Option 1b would ensure that the information provided by issuers is consistent and harmonised across the EU. Moreover, it

would allow issuers to be aware of the data points required and to prepare in advance for the provision of data. Finally, it would ensure that, should the EBA need this information, either to do its significance assessment, or when it takes over the supervision of issuers after the classification of significance, the information submitted by competent authorities to the EBA is already harmonised, thus ensuring a level-playing field for the different issuers supervised by the EBA.

Therefore, **Option 1b has been chosen as the preferred option.**

E. Cost-Benefit Analysis

In general, the guidelines will primarily benefit competent authorities, issuers and customers more than they would cost them. A more detailed evaluation of costs and benefits is provided in Table 1.

Table 1. Costs and benefits of the guidelines

Stakeholder	Costs	Benefits
Issuers of ARTs/EMTs	<p>Additional data to be provided to the competent authority.</p> <p>One-off costs of setting up the system to submit information.</p>	<p>Transparent expectation on the data and information which will be required by the supervisors.</p> <p>Avoid ad-hoc requests across different data points within tight timelines leading to less resources.</p> <p>Common supervisory approach on the data requests with consistent and pre-defined data templates across member states, thus ensuring a level playing field.</p>
Competent authorities	<p>None.</p>	<p>Timely data availability and transparency gives the supervisors a complete data inflow to facilitate the performance of supervisory tasks under MiCAR, including to ensure conformity by issuers with critical requirements under MiCAR (including regarding own funds and liquidity, and, in the case of the EBA, assessments of significance).</p> <p>Harmonised data collection and common templates, leading to a more effective supervision and monitoring of the issuers in line with MiCAR requirements.</p>

Stakeholder	Costs	Benefits
Crypto Asset Service Providers	Additional data to be reported to the issuers on an on-going basis.	Common reporting templates, instructions and frequency across the EU will allow CASPs to provide the same information to all issuers, thus reducing the burden in terms of resources and time.
Token holders	None.	The increased transparency has a positive impact on token holders, who can benefit from higher level of consumer protection due to more efficient supervision.

F. Preferred option

When comparing with the baseline scenario of reporting obligations for the issuers but without in-depth details, the draft Guidelines are expected to offer benefits by achieving a harmonisation in terms of templates, timelines, data fields and definitions which help both the issuers who will be aware in advance on the information and data they need to submit and the supervisors who will be able to conduct their supervision with the appropriate quality assurance of the input information and in a timely manner. The draft Guidelines may lead to some initial moderate costs for the issuers to streamline the submissions of information, but it should be considered that issuers would have incurred in these costs regardless, as the data would be required by supervisors via ad-hoc requests.

5.2 Overview of questions for consultation

Question 1: Do you have any comments on template U 05.01 on how issuers should report on their own funds requirements? Do you have any comments on template U 05.02 on how issuers should report on the composition of their available own funds?

Question 2: Do you have any comments on template U 06.00 on how issuers should report on their reserve of assets by maturity ladder?

Question 3: To note, templates U 03.01 and U 03.02 in these guidelines are the same templates as templates S 03.01 and S 03.02 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft ITS, to EMTs referencing to EU currencies for these templates on the composition of the reserve of assets with these guidelines?

Question 4: Do you have any comments on templates U 07.01, U 07.02 and U 07.03 on how issuers should report information needed to assess the significance criteria as specified in Articles 43 and 56 of MiCAR?

Question 5: To note, templates U 01.00, U 02.00, U 04.01, U 04.02, U 04.03 and U 04.04 in these guidelines are the same templates as templates S 01.00, S 02.00, S 04.01, S 04.02, S 04.03 and S 04.04 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft ITS, to EMTs referencing to EU currencies for these templates related to number of holders; value of the token issued and size of the related reserve of assets; and information on transactions per day with these guidelines?

Question 6: Do you have any comments on template U 09.04 on how CASPs should report to issuers the cross-border transactions that are associated as a means of exchange?

Question 7: To note, CASPs templates U 08.00, U 09.01, U 09.02, U 09.03 and U 10.00 in these guidelines are the same templates as templates S 06.00, S 07.01, S 07.02, S 07.04 and S 08.00 in the draft ITS under Article 22(7) of MiCAR, only the tokens in scope of the reporting is different. Do you have any comments on the extension of the scope, compared to the draft ITS, to EMTs referencing to EU currencies for these templates related to information on holders; information on transactions; and information on token held by the CASPs with these guidelines?

Question 8: Do you have any other comments on the guidelines, the templates or instructions?