



# ***MiCAR: E-MONEY TOKENS***

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# 1. INTRODUCTION

The regulation of crypto-assets and related services is becoming standardised across the European Union (EU) through the Markets in Crypto-assets Regulation (Regulation (EU) No 2023/1114 dated 31 May 2023), also known as **MiCAR**.

MiCAR is a comprehensive regulatory framework that governs the issuance, offerings to the public, and admission to trading of crypto-assets, as well as services related to crypto-assets; within the European Union. As such, MiCAR lays down a comprehensive set of requirements for issuers, offerors and crypto-asset service providers. Within this framework, a crypto-asset is “*a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology*” (“**Crypto-asset**”).

MiCAR divides Crypto-assets into the following subcategories:

- Asset-Referenced Tokens (“**ART**”): “a type of Crypto-asset that is not an electronic money token and that purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies”;
- Electronic Money Tokens or E-Money Tokens (“**EMT**”): “a type of Crypto-asset that purports to maintain a stable value by referencing the value of one official currency”;
- Crypto-assets other than asset-referenced tokens and e-money tokens.

The last subcategory mentioned above includes “utility tokens” which are “*a type of Crypto-asset that is only intended to provide access to a good or a service supplied by its issuer.*”

MiCAR entered into force on 29 June 2023 and will be applicable in all EU member states by 30 December 2024. However, rules regarding ARTs and EMTs will apply from 30 June 2024.

This Monograph is the third of a **series** dedicated to MiCAR.

*This document shall not be considered legal, tax, or investment advice. It may only be used for informative and educational purposes.*

## 2. THE CONCEPT OF E-MONEY TOKENS

### 2.1 Definition of EMTs

MiCAR defines EMTs as “a type of Crypto-asset that purports to maintain a stable value by referencing the value of one official currency.” This reference to a single currency is the characteristic that distinguishes EMTs from other types of Crypto-assets considered by MiCAR, including ARTs, which are stablecoins similar to EMTs but whose value refers to another value or right or a combination thereof including one or more official currencies.

EMTs are considered “**electronic money**” as that term is defined in Directive 2009/110/EC<sup>1</sup>:

*“Electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions, and which is accepted by a natural or legal person other than the electronic money issuer.”*

Thus, **Titles II and III of Directive 2009/110/EC** apply to EMTs **unless otherwise stated in the MiCAR**.

### 2.2 The Purpose of the Existence of EMTs

Similar to electronic money, EMTs are electronic surrogates for coins and banknotes and are commonly used for making payments. However, electronic money differs from EMTs. Electronic money holders are always provided with a claim against the electronic money issuer and have a contractual right to redeem the monetary value of the electronic money held at any moment and par value. However, some Crypto-assets referencing an official currency may lack such claims and may fall outside the scope of Directive 2009/110/EC. Accordingly, to avoid circumvention of the rules laid down in Directive 2009/110/EC, the definition of EMTs should be as wide as possible to capture all Crypto-assets referencing a single official currency.

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<sup>1</sup> Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions.

## 3. REQUIREMENTS TO BE FULFILLED BY ALL ISSUERS OF E-MONEY TOKENS

### 3.1 Offering an EMT to the Public or Admission to Trading

For an Issuer to offer an EMT to the public or seek admission for trading within the EU, the Issuer must:

- (a) be authorised either as a **credit institution**<sup>2</sup> under Directive 2013/36/EU<sup>3</sup> or an **electronic money institution**<sup>4</sup> under Directive 2009/110/EC;
- (b) at least 40 working days before they intend to make the EMT offerings to the public or seek their admission to trading, must notify their competent authority of that intention;
- (c) at least 20 working days before the date of their publication, notify their White Paper to their competent authority;
- (d) publish the White Paper that was given to the competent authority.

With the written consent of the Issuer, other legal persons may offer to the public or seek their admission to trading. Additionally, other legal persons must comply with the rules regarding (i) prohibition of granting interest and (ii) marketing communications; as described in the following chapters.

**Exemptions** The above requirements do not apply to the Issuer that benefits from a waiver under Article 9(1) of Directive 2009/110/EC.

**Attention** Rules on EMTs do not apply in the following cases:

- monetary value stored on instruments<sup>5</sup>;
- monetary value that is used to make payment transactions<sup>6</sup>.

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<sup>2</sup> Defined as “an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account”.

<sup>3</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.

<sup>4</sup> Defined as “a legal person that has been granted authorisation under Title II of the Directive 2009/110/EC to issue electronic money”.

<sup>5</sup> Services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services.

<sup>6</sup> Payment transactions executed by means of any telecommunication, digital, or IT device, where the goods or services purchased are delivered to and are to be used through telecommunication, digital, or IT device, provided that the telecommunication, digital, or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.

The Issuer, no matter the circumstance, must draft a White Paper and notify such White Paper to the competent authority at least 20 working days before the date of their publication.

### 3.2 Issuance and Redeemability of EMTs

Issuers issue EMTs at par value and on the receipt of funds. Upon request from the EMT holder to the Issuer, the Issuer must redeem it at any time and at par value by paying in funds, other than electronic money, the monetary value of the EMT. The conditions for redemption must be prominently stated in the White Paper. The redemption of EMTs must not be subject to a fee.

### 3.3 Prohibition of Granting Interest

Issuers should not grant interest concerning EMTs.

#### *Attention*

Any remuneration or other benefit related to the length of time during which a holder of an EMT holds such EMT must be treated as interest. Interest includes net compensation or discounts, with an effect equivalent to that of interest received by the holder of the EMT, directly from the Issuer or third parties, and directly associated to the EMT or from the remuneration or pricing of other products.

### 3.4 Investment of Funds Received in Exchange for EMTs

Funds received by the Issuers in exchange for EMTs must be safeguarded as follows:

- at least 30% is always deposited in separate accounts in credit institutions;
- the remaining funds received are invested in secure, low-risk assets that qualify as highly liquid financial instruments with minimal market risk, credit risk and concentration risk, and are denominated in the same official currency as the one referenced by the EMT. The investments must be capable of being liquidated rapidly with minimal adverse price effects.

## 4. WHITE PAPER AND MARKETING COMMUNICATIONS

### 4.1 Drafting of the White Paper

Before offering the EMT to the public in the EU or seeking its admission to trading, the Issuer is required to draw up, notify their competent authority (at least 20 working days before the date of their publication), and publish an information document containing mandatory disclosures (the “**White Paper**”). Competent authorities do not require prior approval of a White Paper before their publication.

All information in the White Paper should be fair, clear, and not misleading. The White Paper should include the date of its notification and a table of contents. It must be made available in a machine-readable format and concise and comprehensible form. It should be written in an official language of the home and host Member State or a language commonly used in international finance.

In particular, the White Paper must contain certain information, declarations, a non-technical summary, the date of its notification, and a table of contents.

#### 4.1.1 Information

The White Paper should include all of the following information on:

- the Issuer;
- the EMT itself;
- the offer to the public of the EMT or its admission to trading;
- the rights and obligations attached to the EMT;
- the underlying technology;
- the risks;
- the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the EMT.

#### **Attention**

It should also expressly refer to the right of holders of EMT to redeem their EMT for funds denominated in the official currency that the EMTs reference at par value and at any time.

#### 4.1.2 Declarations

The White Paper should include the following clear and prominent **statement on the first page**:

*“This crypto-asset white paper has not been approved by any **competent authority** in any Member State of the European Union. The issuer of the*

*crypto-asset is solely responsible for the content of this crypto-asset white paper.”*

Following the statement above, the White Paper must include a **statement from the management body of the Issuer**, which confirms that the White Paper complies with Title IV of MiCAR and that, to the best of management’s knowledge, the information presented in the White Paper is complete, fair, clear and not misleading and that the White Paper makes no omission likely to affect its import.

Moreover, it should include a clear warning that:

- the EMT is not covered by the investor compensation schemes under Directive 97/9/EC;
- the EMT is not covered by the deposit guarantee schemes under Directive 2014/49/EU.

#### 4.1.3 Non-technical summary

**Following the statement from the management body**, the White Paper should include a summary, which must be in brief and non-technical language, provide key information about the offer to the public of the EMT or the intended admission to trading to help prospective holders of the crypto-assets to make an informed decision. The summary must be easily understandable, presented, and laid out in a clear and comprehensive format, using characters of readable size.

#### **Attention**

The summary should also state that holders of the EMT have a right of redemption at any time and at par value, as well as the conditions for redemption.

## 4.2 Amendments to the White Paper

Any significant new factor, any material mistake, or any material inaccuracy that is capable of affecting the assessment of the EMT must be described in a modified White Paper drawn up by the issuers, notified to the competent authorities, and published on the issuers’ websites.

## 4.3 Liability of Issuers for the Information Given in the White Paper

All information included in the White Paper, where applicable in the modified White Paper, should be fair, clear, and not misleading. If the Issuer fails to do so, the administrative, management, or supervisory body of the Issuer may be liable to a holder of the EMT for any loss due to that infringement.

The Issuer and the members of its administrative, management, or supervisory body should not be liable for loss suffered as a result of reliance on the information provided in a summary, except where the summary (i) is misleading, inaccurate, or inconsistent when read together with the other parts of the White Paper; or (ii) does not provide, when read

together with the other parts of the White Paper, key information to aid prospective holders when considering whether to purchase the EMT.

#### 4.4 Relevant other information to be notified to the competent authority

The Issuer must, together with the notification of the White Paper, provide the competent authority with the information:

- the name, legal form, and legal entity identifier of the Issuer;
- the commercial name, physical address, telephone number, email, and website of the Issuer;
- the White Paper and any modified White Paper, with the out-of-date versions of the White Paper kept in a separate archive and clearly marked as out-of-date;
- the starting date, or, if not available at the time of the notification by the competent authority, the intended starting date, of the offer to the public or the admission to trading;
- any other services provided by the issuer not covered by MiCAR, with reference to the applicable EU or national law;
- the date of authorisation as a credit institution or as an electronic money institution and, where applicable, of withdrawal of that authorisation.

#### 4.5 Marketing Communications

Marketing communications should be clearly identifiable with the information being fair, clear, and not misleading. Furthermore, the information should be consistent with what is being stated in the Whitepaper and state that the White paper has been published and clearly indicate the address of the website of the Issuer, as well as a telephone number and an email address to contact the Issuer.

##### **Attention**

Marketing communications must include a clear and unambiguous statement that the holders of the EMT have a right of redemption against the Issuer at any time and at par value.

For a deeper analysis of the marketing communications rules, see our monograph MiCAR: [Marketing Rules for Crypto-assets](#).



## 5. RECOVERY AND REDEMPTION PLAN

The recovery and redemption plan aims to ensure that the rights of the holders of the EMTs are protected when Issuers are not able to comply with their obligations.

The rules related to ARTs apply with the necessary changes to Issuer. For a deeper analysis of the recovery and redemption plan, see our monograph [MiCAR: Asset-Referenced Tokens](#) with the following exemptions:

- the date by which the recovery plan is to be notified to the competent authority must, in respect of Issuers, be within six months of the date of the offer to the public or admission to trading.
- the date by which the redemption plan is to be notified to the competent authority must, in respect to Issuers, be within six months of the date of the offer to the public or admission to trading.

## 6. SIGNIFICANT E-MONEY TOKENS

### 6.1 Classification of EMTs as significant EMTs

EMTs are considered to be significant where at least three of the following criteria are met (i) during the period covered by the first report of information following the offer to the public or the seeking admission to trading of those tokens; or (ii) during the period covered by at least two consecutive reports of information:

- the number of holders of EMTs is larger than 10 million;
- the value of the EMTs issued, its market capitalisation or the size of the reserve of assets of the Issuer is higher than € 5 billion;
- the average number and average aggregate value of transactions in that EMT per day during the relevant period, is higher than 2.5 million transactions and €5 billion respectively;
- the Issuer is a provider of core platform services designated as a gatekeeper;
- the significance of the activities of the Issuer on an international scale, including the use of the EMT for payments and remittances;
- the interconnectedness of the EMT or its Issuers with the financial system;
- the fact that the same Issuer issues at least one additional ART or EMT, and provides at least one Crypto-asset service.

An Issuer, authorised as a credit institution or electronic money institution or applying for such authorisation, may indicate that it wishes for its EMT to be classified as a significant EMT. In this case, the Issuer must demonstrate, through a detailed programme of operations, that it will likely meet at least three of the criteria described above.

### 6.2 Specific additional obligations for Issuers that are electronic money institutions

Significant EMTs could pose greater risks to financial stability than EMTs that are not significant and traditional electronic money. Issuers that are electronic money institutions are subject to additional requirements.

Such issuers of significant EMTs are subject to higher capital requirements than issuers of other EMTs, be subject to interoperability requirements, and must establish a liquidity management policy. They must have a remuneration policy that promotes effective risk management and does not incentivize relaxed risk standards. Additionally, they are required to comply with some of the same requirements that apply to issuers of ARTs (e.g., reserve of assets and those on custody and investment of the reserve of assets),

except for an independent audit that will be mandated every six months as of the date of the decision to classify the EMT as significant.

The same requirements that apply to issuers of ARTs, reporting on ARTs and restrictions on the issuance of ARTs used widely as a means of exchange, will apply to EMTs denominated in a currency that is not an official currency of a Member State.

For a deeper analysis of such requirements, see our monograph [MiCAR: Asset-Referenced Tokens](#).

**Exemption** Credit institutions are not subject to the additional obligations as the related article of Directive 2009/110/EC does not apply to them even if they issue electronic money.

## 7. CONCLUSIONS

EMTs offer a familiar and accessible entry point for individuals and institutions interested in exploring the benefits of crypto-assets, combining the efficiency and security of digital assets with the stability and familiarity of traditional fiat currencies.

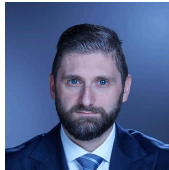
Its regulatory recognition paves the way for increased adoption and acceptance of these assets in mainstream finance. Likewise, by offering a stable value and regulatory oversight, these tokens provide a viable alternative to traditional fiat currencies, enabling cross-border payments, remittances, and financial inclusion.

The successful integration of EMTs into the EU regulatory framework sets a precedent for other jurisdictions to follow, embracing innovation and providing clear guidelines for the responsible development of the digital asset ecosystem while safeguarding the interests of investors and consumers.

## Previous monographs in the MiCAR series



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