

EBA/CP/2023/15

12 July 2023

Consultation Paper

Draft Regulatory Technical Standards on information for application for authorisation to offer to the public and to seek admission to trading of asset-referenced tokens and Draft Implementing Technical Standards on standard forms, templates and procedures for the information to be included in the application, under Article 18(6) and (7) 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 12.10.2023. 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

1. Introduction

Regulation (EU) 2023/1114 (MiCAR) provides that the offer to the public or the admission to trading of asset-referenced tokens (ARTs) is reserved to a) legal persons or other undertakings established in the EU which have been granted authorisation in accordance with Article 21 MiCAR, or b) to credit institutions subject to the publication of a white paper.

To ensure harmonisation of supervisory practices as regards access to the market, the EBA is mandated by Article 18, paragraphs (6) and (7) MiCAR, to develop two technical standards in relation to the application for authorisation to be submitted by legal persons or other undertakings established in the EU intending to offer to the public or seek admission to trading of ART, namely:

- RTS on the specification of information to be contained in an application to offer to the public or to seek admission to trading of asset-referenced tokens ('RTS information for authorisation')
- ITS on the establishment of standard forms, templates and procedures for the information to be included in the application in order to ensure uniformity across the Union ('ITS information for authorisation')

In accordance with the mandate set out in Article 18(6) MiCAR, the RTS information for authorisation has been developed in close cooperation with ESMA and with the ECB, the ITS information for authorisation has been developed in close cooperation with ESMA (Article 18(7) MiCAR).

Considering the interaction between the two technical standards, they are included in the same Consultation Paper.

2. RTS information for authorisation

The draft RTS covers the comprehensive list of information to be provided in an application by legal persons or other undertakings seeking to obtain the authorisation and specify the content of the information listed in Article 18(2) MiCAR, including the information requirements for which that provision cross-refers to Article 34(5) MiCAR on internal governance, that need to be submitted with the application.

The draft RTS follows the structure of licensing regulatory products and covers:

(a) the identification details of the applicant issuer;

(b) the programme of operations, including the main features of the intended issuance – including the specification of the mechanism of the issuance and redemption of ARTs, other outstanding is-

suances or activities carried out by the applicant issuer, the business model, strategy and risk assessment, the financial forecast showing the viability of the business plan, including calculation of the own funds requirements and of the reserve of assets, the applicant issuer's past financial information. As regards interaction between the business model and the serious risks to expose the issuer or the sector to ML/TF risks, the programme of operations requires that the risk assessment also includes money laundering and terrorist financing, and that the description of the mechanisms for issuance and redemption indicate the CASPs or other entities subject to AML/CFT obligations involved in such mechanisms;

(c) the internal governance arrangements and structural organisation - including information on third-party providers of critical and important functions -, the internal control framework - including the ICT risk management framework that has to be compliant with the requirements laid down in Regulation 2022/2554/EU on Digital operation resilience for the financial sector ('DORA');

(d) the liquidity management, reserve of assets and redemptions rights, including a description of the stabilisation mechanism for the ARTs for which the authorisation is sought,

(e) suitability of the members of the management body;

(f) the sufficiently good repute of shareholders or members with direct or indirect qualifying holdings.

The information set out in the draft RTS on information for authorisation complements that contained in the white paper which has to be submitted together with and is part of the application for authorisation.

In accordance with Article 20(3) MiCAR, the draft RTS on information for authorisation does not prejudice a competent authority's right to request clarifications or additional information that may be required following a review of the information provided in accordance with the draft RTS.

3. ITS on information for authorisation

This mandate complements the RTS on information for authorisation by laying down uniform modalities and procedures to submit the application and by setting a standard submission letter and a template for the submission of the application.

As to the procedure, the ITS clarifies the modalities to file an application with the competent authority (electronic form, upload on the competent authority's portal, paper form, which may be required for certificates on criminal records etc ...), the steps to be followed in case of incomplete application and when an application has to be considered complete.

The mandate does not cover the identification of the information to be transmitted, which is covered by the RTS on information for authorisation.

Next steps

The draft RTS will be submitted to the European Commission for endorsement following which they will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

The draft ITS will be submitted to the European Commission for endorsement and publication in the Official Journal of the European Union.

3. Background and rationale

Legal framework applicable to authorisation to offer to the public or to seek admission to trading of ARTs

Article 16 MiCAR restricts the offer to the public or the admission to trading of ARTs to issuers established in the EU which are:

- i) legal persons or undertakings which have been granted an authorisation under MiCAR, or
- ii) credit institutions which comply with the requirements set out in MiCAR.

Undertakings which are not legal persons may apply for authorisation to issue ARTs, provided that their legal status ensures a level of protection for third parties' interests equivalent to that afforded by legal persons, and they are subject to equivalent prudential supervision.

Exemptions from authorisation are envisaged in Article 16(2) MiCAR in cases of a) small issuances of amounts never exceeding Euro 5,000,000 or equivalent amount in another official currency, and the issuer is not linked to a network of other exempt issuers; or b) issuances exclusively addressed to professional investors. Even in these cases, issuers have to comply with transparency requirements such as notification of the white paper and marketing communications to the competent authority.

Authorisations granted to applicant issuers are valid throughout the EU and allow to offer the ARTs or to seek admission to a trading platform.

An application for authorisation has to be submitted to the competent authority defined in point (35), point (a), of Article 3(1) MiCAR of the Member State where the issuer is established with all the required relevant information, including the white paper. The process for granting the authorisation envisages a first phase where the competent authority assesses the completeness of the application; a second step where the complete application is assessed; a third step where the competent authority transmits its draft decision on the grant of the authorisation and the application file, including the white paper, to the ECB and other central bank (where the proposed token is referencing currencies other than the Euro) for the adoption of an Opinion on the interaction of the proposed ART with monetary policy, monetary sovereignty, smooth functioning of the payment systems and financial stability. Subsequent to the adoption of the ECB's and other central bank's Opinion, the competent authority takes a fully reasoned decision on the grant or refusal of the authorisation, being understood that the ECB's or other central bank's negative Opinion entail a refusal of the authorisation.

Grounds for refusal of the authorisation are set out in Article 21(2) MiCAR and are:

- a) the risk that the management body of the applicant issuer may pose threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market;
- b) unsuitability of the members of the management body;

- c) lack of sufficient good repute by the shareholders and members, whether direct or indirect, that have qualifying holdings;
- d) applicant issuer's failure or likely failure to meet any of the requirements of Title III of MiCAR;
- e) the risk that applicant issuer's business model might pose a serious threat to market integrity, financial stability, the smooth operation of payment systems, or exposes the issuer or the sector to serious risks of money laundering and terrorist financing.

RTS on information for authorisation

The mandate conferred to the EBA by Article 18(6) MiCAR relates to the specification of the information listed in paragraph (2) of that Article 18, to be contained in an application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens.

The mandate does not cover the methodology to assess the application containing such information, which is developed in other mandates conferred to the EBA, es. the EBA and ESMA Joint Guidelines on the suitability of the members of the management body and of the shareholders and members, whether direct or indirect, with qualifying holdings (Article 21(3) MiCAR) and the EBA Guidelines on internal governance (Article 34(12) MiCAR). Similarly, for policies and procedures on the composition and management of reserve of asset (Article 36 MiCAR), the custody of reserve of assets (Article 37), and the investment of reserve of assets (Article 38 MiCAR) the RTS on information for authorisation makes express reference to the relevant provisions of MiCAR and to the mandates for the specification of the Level 1 conferred to the EBA. The same drafting technique applies to description of the policy on conflicts of interest (Article 32 MiCAR), the description of the policy on complaints handling (Article 31 MiCAR) and the policy and arrangements for the redemption of the ARTs.

With regard to the level of detail of the information request set out in the draft RTS on information for authorisation, the following considerations need to be taken into account.

Proportionality and flexibility of the information to be submitted with the application is embedded in Article 18(3) MiCAR providing that an "issuer that has already been authorised in respect of one asset-referenced token shall not be required to submit, for the purposes of authorisation in respect of another asset-referenced token, any information that was previously submitted by them to the competent authority where such information would be identical". Furthermore, the provision of simplified prudential requirements, e.g. for own funds, entails a less detailed information request – compared to other entities - for purposes of the application for authorisation. Where the application includes the request of voluntary classification as issuer of significant ARTs an increased level of detail is requested which has to be adequate to the higher complexity and risk profile of the applicant issuer.

Conversely, MiCAR takes a detailed approach in laying down a granular list of information to be contained in the application and in conferring a mandate to the EBA to further specify such information. The information requirements for the white paper are listed in a granular manner in Annex II to MiCAR and are not further specified in the draft RTS.

Similarly, the draft RTS does not further specify the content of the legal opinion requested under Article 18(2)(e) as to whether the ART does not qualify as (i) a crypto-asset excluded from the scope of MiCAR pursuant to Article 2(4) therein; or (ii) an e-money token. Considering the mandate conferred to the ESAs by Article 97(1) on the development of Joint Guidelines on the content and form of the

explanation accompanying the white paper, and of the legal opinion on the qualification of token (including a template for the explanation and opinion), such Joint Guidelines are considered to be best placed for the specification of the content of such legal opinions.

Having regard to the relevance of the ECB's or other central bank's Opinion for the grant of authorisation¹, the determination of the level of detail of the information requirements of the application for authorisation has taken into account the need to provide the ECB or other central bank with the relevant information to adopt their Opinion.

The RTS on information for authorisation avoids overlapping and duplication of information with that contained in the white paper as much as possible. However, given the different purposes of the application - a confidential file addressed to the competent authority to enable the prudential assessment –and the white paper – a public document aimed to enable prospective buyers to make an informed purchase decision -, some duplications have been included where they are functional to capturing elements which are relevant for the prudential assessment of the application.

In the absence of ART issuers and having regard to the existence of a limited number of 'stablecoins' pegged to a single currency so far, it can be assumed that there is not a typical business model to refer to. In the light of this, the development of the information request relating to the programme of operations and internal governance also relies on lessons learned from recent failures of stablecoins issuers such as Terra/Luna, other operators such as FTX, and the policy reactions at the international level, in particular the FSB Consultation on the review of the High-Level recommendations for Global Stablecoin arrangements².

The specification of the content of the programme of operations is articulated in two provisions one relating to qualitative information on the features of the issuance, business model, competitive environment, strategy and risk profile; the other to the quantitative financial information of the business plan which has to demonstrate the initial viability of the business and its ongoing sustainability. Such projections have to be submitted on a case base and stress scenario basis for a three-year time horizon.

Two provisions cover the information requirements on internal governance: one concerns the applicant issuer's governance arrangements and organisational structure which should be robust and transparent in order to ensure the sound and prudent management of the entity, paying specific attention to third-party providers of critical and important functions. The other provision focuses on the internal control framework including the ICT risk management. Appropriate references to DORA are included to ensure consistency of applicable requirements.

With regard to the information requirements on the functioning of the proprietary DLT or similar technology where the ARTs are issued, transferred or stored in such proprietary DLT or similar technology operated by the issuer or by a third party acting on its behalf³, the RTS on information for authorisation

¹ Article 21(4) MiCAR provides that "Competent authorities shall also refuse authorisation if the ECB or, where applicable, the central bank gives a negative opinion under Article 20(5) on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission, or monetary sovereignty".

² 11 October 2022, available at <https://www.fsb.org/2022/10/review-of-the-fsb-high-level-recommendations-of-the-regulation-supervision-and-oversight-of-global-stablecoin-arrangements-consultative-report/>

³ Such specification is required by letter (l) of Article 18(2), MiCAR which cross-refers to letter (f) of Article 34(5) MiCAR.

pays attention to strike a balance between capturing the relevant features without being excessively detailed given the evolving character of the technology.

With regard to the AML/CFT aspects, the draft RTS on information for authorisation takes into account on the one hand that issuers of ARTs are not obliged entities under the AMLD or Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets, on the other hand that, based on MiCAR, the authorisation has to be refused by the competent authority where the business model exposes the issuer or the sector to serious risks of ML/TF.

To enable the competent authority to properly assess whether the applicant issuer's business model gives rise to serious ML/TF risks, the application needs to contain adequate information, including on the mechanisms for issuance, redemption and distribution of the asset-referenced tokens. Considering the possibility offered by the technology to deploy and transfer tokens without the support of intermediaries, it is important that the applicant issuer adequately explains how the mechanisms for issuance and redemption are structured to avoid exposing the issuer or the sector to serious ML/TF risks. Subject to supervisory assessment, the applicant issuer and the financial system may be exposed to serious ML/TF risks where transactions with customers entailing the acceptance of funds or of crypto-assets or other assets in exchange/payment of the transfer or redemption of the tokens do not occur via the intermediation of CASPs or other entities subject to AML/CFT obligations with adequate internal control systems enabling to carry out the required screenings and tests to customers and transactions. Where the applicant issuer is itself a CASP it shall have to demonstrate that its internal control framework and systems are adequate to comply with AML/CFT requirements set out in the AMLD and in Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets.

The information requests relating to liquidity management, reserve of assets and redemption rights referred to in Article 18(2) MiCAR relate to policies and procedures to be submitted with the application. To avoid being under- or over-inclusive, the draft RTS on information for authorisation limits to lists such policies and cross-refers to the applicable MiCAR provisions and related EBA RTSs for the specification of their content. Information requirements are listed in respect of the contractual arrangements with custodians of reserve of assets and with operators for the management of the reserve of assets.

To enable the competent authority to assess the suitability of the members of the management body, the draft RTS on information for authorisation lays down information requirements on the good repute, knowledge, skills, experience and time commitment of each member. Information on material financial and non-financial conflict of interest is relevant to the assessment of the good repute, having regard to the perceived trustworthiness of the members of the management body.

MiCAR envisages that the assessment of shareholders and members with direct or indirect qualifying holding in the applicant issuer is limited to the proof of their 'sufficiently good repute' for purpose of granting authorisation. To enable the competent authority to assess such requirement, the draft RTS on information for authorisation requires the applicant issuer to submit information on the integrity of the shareholders and members and the proof of the legitimate origin of the funds used for the financing the purchase of the holdings and the business of the applicant issuer.

The information requirements on the suitability of the members of the management body and of the shareholders and members with qualifying holdings are aligned with the ESMA's draft RTS on information for the application for authorisation as CASP, also having regard that the assessment methodology for the suitability

ity of the members of the management body, and of the shareholders and members with qualifying holdings will be laid down in Joint EBA and ESMA Guidelines in accordance with the mandates set out in Article 21(3) and in Article 63(11) MiCAR.

ITS on information for authorisation

The mandate set out in Article 18(7) MiCAR for the development of implementing technical standards on standard forms, templates and procedures for the information to be included in the application for authorisation complements the RTS on information for authorisation by harmonising the transmission of the information for authorisation.

The mandate does not specify the information to be transmitted, which is identified in the Level 1 and specified in the RTS in information for authorisation.

Although the mandate does not cover the transmission of information from the competent authority to the ECB and other central bank, and from the competent authority to the EBA or ESMA for the adoption of their Opinions (if any) on whether the envisaged token falls within the scope of application of MiCAR or is covered by other EU sectoral acts, such standard forms, templates and procedure should be designed also having such subsequent steps in mind and be as much standardised as possible.

As regards the specification of the procedure, the ITS clarifies the modalities to file an application with the competent authority and privileges the electronic form, but envisages the possibility for the competent authority to also request the submission of certain information and documents, such as the criminal records, in original paper form. The procedure also clarifies the steps to be followed in case of incomplete application and when an application should be considered to be complete.

Annex I contains the standard letter for the submission of the application, it requires to specify the type of application, i.e. whether it is the first application or a subsequent application after an authorisation has been previously granted by the competent authority in relation of another asset-referenced token and whether the application contains a request for voluntary classification as issuer of significant ARTs.

Annex II is the template to be used for the application, it groups the information requirements set out in the RTS in fields, further specified in sub-fields. For sake of clarity and completeness the relevant Article of the RTS on information for authorisation is expressly indicated so to ensure that all information set out in that provision is included in each specific sub-field.

4. Draft regulatory technical standards on information for application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens under Article 18(6) of Regulation (EU) 2023/1114

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be contained in an application for authorisation to offer to the public or to admit to trading asset-referenced tokens under Article 18(6) therein

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/1114 on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, and in particular Article 18(6) thereof,

Whereas:

- (1) The information to be provided in an application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token should be sufficiently detailed and comprehensive to enable the competent authority to assess whether an applicant issuer meets the requirements laid down in Title III of Regulation (EU) 2023/1114 and does not fall in any of the grounds justifying the refusal of authorisation.
- (2) The information submitted by the applicant issuer for authorisation as issuer of an asset-referenced token should be true, accurate, complete and up-to-date from the moment of submission of the application until authorisation. For that purpose, competent authorities should be informed of any changes to the information provided in the initial application, and competent authorities should be able to enquire whether any changes or updates have occurred before the public offer or admission to trading of the asset-referenced token.
- (3) An application for authorisation should contain a programme of operations, describing the technical and operational mechanisms of the issuance and of the redemption, the market players participating to the public offer or admission to trading, the applicant issuer's business model including any other issuance or financial or non-financial activity, the strategy and risk analysis of the applicant issuer for the three years following authorisation.
- (4) As part of the programme of operations, the application should also contain a quantitative description of the business plan including the financial forecasts, supporting the explanation of its viability, ongoing sustainability and the applicant issuer's ability to meet prudential requirements in the three years following the grant of authorisation in a baseline and in a stress scenario.
- (5) Issuers of an asset-referenced token, which are not crypto-asset service providers are not subject to the obligations set out in Directive 2015/849/EU on preventing of the

use of the financial system for the purposes of money laundering or terrorist financing or to the obligations set out in Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849, it is therefore crucial that the applicant issuer's business model is structured in a manner that does not expose the issuer or the sector to serious risks of money laundering and terrorist financing, since this constitutes a ground of refusal of the authorisation. It is therefore important that the applicant issuer provides adequate information on the business model to inform an adequate assessment by the competent authority of its susceptibility to such risks, including on the mechanisms, arrangements and involvement of crypto-asset service providers in relation to the issuance, redemption and distribution of an asset-referenced token, on the internal control systems and continuous compliance of the specific crypto-asset provider or providers with which the applicant envisages to have arrangements in place, and on the risk assessment in respect of money laundering and terrorism financing, demonstrating that the business model does not expose to serious risks of money laundering or terrorist financing risks.

- (6) The application should contain clear and comprehensive information on the applicant's organisation, operational structure and governance arrangements showing their adequacy and robustness to ensure the sound and prudent management of the issuer. The application should contain the description of the arrangements with third-party service providers of critical or important functions to ensure that they are in compliance with applicable requirements. For sake of legal certainty, it is worth clarifying that whilst third-party service providers are external to the applicant issuer, they may be undertakings belonging to the same group of the applicant issuer.
- (7) Effective internal control framework, including risk management and Information and Communication Technology (ICT) systems and risk management are crucial to the sound and prudent management of the activities of the issuer and in particular of the reserve assets in order to ensure issuers of an asset-referenced token to meet token holders' redemption rights and as well as to prevent, monitor and mitigate operational and other type of risks. Applicant issuers should therefore provide adequate documentation on their internal control framework and ICT risk management framework and that demonstrate that they are also in compliance with the requirements set out in Regulation 2022/2554/EU.
- (8) Reserve of assets are crucial to ensure the effectiveness of the stabilisation mechanism underpinning the asset-referenced token and the redemption rights of token holders, applicant issuers should therefore submit with the application clear and detailed policies on the composition, constitution, segregation, custody and investment management of such reserve of assets.
- (9) As one of the requirements to ensure that the issuer of an asset-referenced token will act fairly and honestly, it is necessary that applications provide the information and documents to prove that the members of the management body are of sufficiently good repute, knowledge, skills and experience. Notably, the applicant issuer of an asset-referenced token should provide the competent authority with all information about past convictions and pending criminal investigations, civil and administrative cases and other adjudicatory proceedings of the members of the management body, as well as relevant information to assess their professional experience, knowledge and skills

in the areas relevant to financial services, crypto-assets, other digital assets, DLT, digital innovation, information technology ('IT'), cybersecurity or management.

- (10) Similarly, in respect of the requirement of good repute of shareholders and members directly or indirectly holding qualifying holdings in the applicant, the application should contain all information about past convictions and pending criminal investigations, civil and administrative cases and other adjudicatory proceedings, as well as relevant information enabling the assessment of any suspicion of money laundering and terrorist financing in relation to the shareholders or members with qualifying holdings, and to establish the certainty and legitimate origin of the funds or other assets used to set-up the applicant issuer and finance its business.
- (11) For purposes of legal certainty, it is worth clarifying that this Regulation should apply to all applications for the offer to the public or admission to trading of an asset-referenced token submitted on or after the day of entry into force of this Regulation and that it does not apply to applications submitted before its entry into force, the assessment of which has not been completed by the competent authority.
- (12) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority. The European Banking Authority has developed these draft regulatory technical standards in close cooperation with the European Securities and Market Authority and with the European Central Bank.
- (13) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁴;

- **HAS ADOPTED THIS REGULATION:**

Article 1 **Definitions**

- 1 For purposes of this Regulation the following definitions shall apply:
 - a) 'group' means a group of undertakings of which at least one is an issuer of asset-referenced tokens that has been authorised pursuant to Article 21 of Regulation (EU) 2023/1114 and which consists of a parent undertaking and its subsidiaries, or of undertakings that are related to each other as set out in Article 22 of Directive 2013/34/EU⁵ on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings;

⁴ Regulation (EU) No 109x/2010 of the European Parliament and of the Council ...[*full title*] (OJ L [number], [date dd.mm.yyyy], [p.].).

⁵ Insert full name of directive

- b) 'critical or important function' means a function that is critical or important to the issuer of asset-referenced token so that a defect or failure in the performance of that function materially impairs the continuing compliance of the issuer of the asset-referenced token with the conditions of authorisation or with the requirements under Title III of Regulation (EU) 2023/1114 or with the financial performance of the issuer of asset-referenced token.

Article 2

Information about the identity of the applicant issuer

- 1 An application for authorisation shall contain all of the following information about the identity of the applicant issuer:
- (a) the full legal name and contact details of the person within the applicant issuer to contact regarding the application;
 - (b) the full name and contact details of the principal professional adviser, if any, used to prepare the application;
 - (c) the applicant issuer's current full legal name, trading name, logo, website addresses of all communication and marketing channels including social media accounts and, where applicable, any intended changes to those names, accounts or addresses;
 - (d) the applicant issuer's validated, issued and duly renewed ISO 17442 legal entity identifier released in accordance with the terms of any of the accredited Local Operating Units of the Global Legal Entity Identifier System;
 - (e) the applicant issuer's legal form;
 - (f) the date and Member State of the applicant issuer's incorporation or formation;
 - (g) the addresses of the applicant issuer's registered office and, where different, of its head office, and of its principal place of business;
 - (h) where the applicant issuer is registered in a central register, commercial register, companies register or similar public register different from the register referred to under point (i), the name of that register and the registration number of the applicant or an equivalent means of identification in that register and a copy of the registration certificate;
 - (i) the applicant issuer's instruments of constitution, and the statute if it is contained in a separate document filed in the register designated by the law of the Member State concerned in accordance with Article 16 of Directive (EU) 2017/1132 on certain aspects of company law;
 - (j) where the applicant issuer is an undertaking that is not a legal person, a legal opinion certifying that the level of protection ensured to third party interests, such as the rights of the holders of an asset-referenced token, is equivalent to that afforded by legal persons and that the applicant issuer is subject to equivalent prudential supervision appropriate to their legal form;
 - (k) the date of the accounting year end for the applicant issuer.

Article 3

Programme of operations: information on the business model, strategy and risk profile

1. The application shall contain the white paper with all the information set out in Annex II Regulation (EU) 2023/1114, and a programme of operations laying down the applicant issuer's business model, strategy and risk assessment for the three years following the granting of the authorisation.
2. Without prejudice to all the information contained in the white paper, the programme of operations shall include all the following items:
 - (a) information on the applicant issuer's business activities, namely:
 - (i) main features of the asset-referenced token for which the authorisation is sought, including all of the following:
 1. the name and type of crypto-asset;
 2. specification as to whether the authorisation is sought for an offer to the public or an admission to trading, copy of the written consent, if any, given by the applicant issuer to entities which may offer or admit to trading the asset-referenced tokens;
 3. the legal opinion referred to in letter (e) of Article 18 of Regulation (EU) 2023/1114;
 4. description of the mechanism through which the asset-referenced token is issued, including the smart contracts together with an explanatory document on their functioning, the method of payment to buy the asset-referenced token, and the distribution channels, notably the crypto-asset service providers executing selling orders or crypto-asset exchange platforms. Where an agreement is entered into for the distribution of the asset-referenced token, the application shall indicate the name and contact details of the distributors and illustrate the roles, responsibilities, rights and obligations of both the issuer of the asset-referenced token and the distributor or distributors, including the law applicable to the contract;
 5. description of the mechanism through which the asset-referenced token is redeemed, including the crypto-asset service providers involved in the execution of the redemption;
 6. the protocol or consensus mechanism used for validating transactions, including the description of the settlement finality features;
 7. the DLT or DLTs where the asset-referenced token is issued and the bridges between different DLTs;
 - (ii) any outstanding asset-referenced token, e-money token, crypto-assets or other digital assets issued by the applicant issuer, with the indication of the related outstanding amounts; the networks and markets where they are distributed and traded; the amount, composition, custody arrangements and custodians of the related reserve of assets, as well as any other financial and non-financial activity

that is carried out by the applicant and that the applicant intends to continue carrying out in case the authorisation is granted, as well as the interaction among such activities;

- (iii) where the applicant issuer belongs to a group, an overview of the organisation and structure of the group of which the applicant issuer is part, describing the activities of the entities in the group and indicating the parent undertakings, financial holding companies, mixed financial holding companies and investment holding companies within the group, as well any authorisation, registration or other licenses granted by a competent authority in the financial sector held by any such group entity or by the applicant issuer;
- (b) description of the business environment where the applicant issuer will operate, focusing on the crypto-asset and payment sectors including:
 - (i) the main existing market players and principal peers;
 - (ii) the likely development of the business environment and the related potential risks;
 - (iii) an analysis of the applicant issuer's competitive position in the market;
- (c) description of the applicant issuer's overall business strategy and, where the applicant issuer belongs to a group, the overall group strategy, including:
 - (i) explanation of the strategic goals;
 - (ii) indication of the key business drivers;
 - (iii) indication of any identified competitive advantage, such as any prior experience in the digital sector, size and scalability of the business, DLT specificities such as permissioned or permissionless access, related validation protocols and consensus mechanisms, the planned number of transactions per second etc ...;
 - (iv) description of the target customers, such as retail, corporate, institutional, small and medium enterprises, public entities, of the target markets and geographical distribution, including the list of host Member States in accordance with letter (s) of Article 18(2) of Regulation (EU) 2023/1114;
 - (v) a risk assessment covering the actual or potential risks that the planned business may be exposed to, including:
 - business risk factors, such as failure to reach the minimum target subscription goal of the asset-referenced token issuance, where envisaged;
 - operational risk, fraud, ICT and cyber-security risks;
 - financial risks including liquidity risk, market and credit risk;
 - risks related to the significant third-party providers;
 - inherent and residual risks of money laundering and terrorist financing, also having regard to the mechanisms and arrangements relating to the issuance, redemption and distribution of the asset-referenced token;

- (vi) matrix resulting from the interaction of the strengths, weaknesses, opportunities and threats of the business strategy.

Question for consultation

Question 1. Do you consider that letter (a) of Article 3(2) captures in a clear and realistic manner all necessary requirements of the offer to the public or admission to trading of the asset-referenced tokens, including the mechanism for the issuance, redemption and distribution of the asset-referenced tokens?

Article 4

Programme of operations: financial information on the business plan

1. The application shall contain a business plan explaining the initial viability and the on-going sustainability of the applicant issuer's business model and the applicant issuer's capability to comply with prudential requirements for a period of three years from the grant of authorisation on a baseline and on a stress scenario.
2. The stress scenario of the business plan shall rely on severe but plausible stress situations, similar to those designed in accordance with Commission Regulation EU 202X/[RTS on own funds requirements (Article 35(6)(d)) of Regulation (EU) 2023/1114]. For applicant issuers referred to in paragraph (4), the stress scenario shall pay particular attention to liquidity stress situations.
3. The business plan assumptions shall be credible and realistic and shall rely on official macroeconomic forecasts elaborated by a public EU or national institution.
4. Where the application relates to the offer to the public or admission to trading of an asset-referenced token for which voluntary classification as significant is sought, the business plan shall clearly illustrate that the proposed issuance meets the requirements set out in Article 44 of Regulation (EU) 2023/1114 and shall adequately reflect the applicant issuer's higher complexity and risk profile.
5. Without prejudice to the information to be contained in the white paper in accordance with the Annex 2 of Regulation (EU) 2023/1114, the business plan shall contain the forecast financial information on the applicant issuer at individual level and, where applicable, at consolidated level, supporting the explanation of the business profitability and its credibility including:
 - (i) forecast accounting plans for the three years following the granting of authorisation, including:

- 1) forecast balance sheets;
 - 2) forecast profit and loss accounts or income statements, detailing the envisaged sources of revenues (such as fees, revaluation of reserve of assets etc ...), fixed and variable costs (notably labour, administrative, DLT, ICT, custody and management of reserve of assets, third-party arrangements etc ...);
 - 3) forecast cash flow statements, where applicable;
 - 4) forecast growth rates with an explanation of the associated risk assumptions, including the applicant issuer's risk management capabilities;
- (ii) an explanation linking the elements of the programme of operations set out in Article 3, paragraph (2) with the forecasts referred to in point (i);
- (iii) planning assumptions for the forecasts referred to in point (i), including expected number of token holders, expected number and value of transactions per day and expected average number and aggregate value of transactions per day that are associated to uses as means of exchange within a single currency area, profitability drivers, as well as explanations of the quantitative information set out in the plan;
- (iv) calculations of the applicant issuer's own funds requirements pursuant to Article 35(1) of Regulation (EU) 2023/1114 covering the three-year business plan time horizon, without prejudice to the competent authorities' power to impose additional own funds requirements in accordance with Article 35(3), of that Regulation, as specified in Commission Regulation EU 202X/XX [the EBA RTS on own funds requirements in accordance with Article 35(6) of Regulation (EU) 2023/1114], as well as:
- (1) supporting evidence (such as audited financial statement or extract from the companies register) of the issued capital, paid-up capital and capital which has not yet been paid-up. For capital corresponding to the calculated own funds which has not yet been paid up, evidence of the deposit of such amount in escrow account with a credit institution, and
 - (2) information on the legitimate origin of the funds used or to be used to pay-up the capital, set out in Article 8 of Commission Regulation XXX/XX/EU [RTS on information notification of QH in accordance with Article 42(4) of Regulation (EU) 2023/1114];
- (v) forecast calculations of the amount and composition of the reserve of assets and their adequacy to ensure the permanent exercise of the redemption rights throughout the business plan time horizon.
6. The programme of operations shall also contain the applicant issuer's past financial information, namely:
- (i) statutory financial statements of the applicant issuer, at individual level and, where applicable, at consolidated and sub-consolidated level, approved by

the statutory auditor (where applicable) or external audit firm, covering at least the last three financial years preceding the application, including:

- (1) the balance sheet at solo and consolidated or sub-consolidated level where applicable;
 - (2) the profit and loss accounts or income statements at solo, consolidated and sub-consolidated level where applicable;
 - (3) cash flows statement at solo, consolidated and sub-consolidated level where applicable;
- (ii) an outline of any indebtedness incurred or expected to be incurred by the applicant issuer prior to the offer to the public or the admission to trading of the asset-referenced token, including, where applicable, the name of the lenders, the maturities and terms of such indebtedness, the use of the proceeds and, where the lender is not a supervised financial institution, information on the origin of the borrowed funds or on the funds expected to be borrowed;
- (iii) an outline of any security interests, guarantees or indemnities granted or expected to be granted by the applicant prior to the offer to the public or the admission to trading of the asset-referenced tokens;
- (iv) where available, information about the credit rating of the applicant issuer and, where applicable, the overall rating of its group;
- (v) where the applicant issuer has been set-up for less than three years, for the years not covered by financial statements, an updated summary as close as possible to the date of application, of the applicant issuer's financial situation and the financial statements of the previous three years of the shareholders or members with qualifying holdings that are a legal person or the tax declaration of the shareholders or members with qualifying holdings that are a natural person.

Article 5

Information about the internal governance arrangements and the structural organisation

1. The application shall contain clear and comprehensive information on the applicant issuer's organisation, operational structure and governance arrangements showing that they are well designed to ensure the sound and prudent management of the applicant issuer, and shall include the following items:
 - (i) the organisational chart laying down the operational structure in terms of business lines and units and related allocation of staff, the interactions between the applicant issuer's various functions, the indication of clear and effective reporting lines and allocation of responsibilities reflecting the applicant issuer's business activities;

- (ii) the terms of reference of the management body, with a mapping of the roles, duties and reporting lines of each member;
 - (iii) a detailed and comprehensive description of the foreseen number and profile of human resources - such as indication of seniority, skills, expertise - and of the technical resources - such as specific features and functions, up-to-datedness, innovative character - allocated to all planned activities and functions, as well as the related budget, with an explanation of their adequacy to implement the business plan. The application shall also illustrate the actual state of play of the implementation of the envisaged operational structure, including the recruiting plan for the human resources, and the acquisition and operationalisation of the technical resources;
 - (iv) detailed description of the procedures and arrangements to ensure the accurate and timely reporting of data relating to the asset-referenced token;
 - (v) a description of the code of conduct laying down the issuer's ethical and professional corporate values and the risk culture;
 - (vi) a description of the complaints handling policy, in accordance with the requirements set out in Article 31 of Regulation 2023/1114, specified in Commission Regulation EU 202X/XX [EBA RTS on complaints handling in accordance with Article 31(5) of Regulation (EU) 2023/1114];
 - (vii) a description of the conflicts of interest policy, in accordance with the requirements set out in Article 32 Regulation 2023/1114, specified in Commission Regulation EU 202X/XX [EBA RTS on conflicts of interest in accordance with Article 32(5) of Regulation (EU) 2023/1114];
 - (viii) a description of the market abuse policy ensuring the issuer's adherence to appropriate standards preventing market abuse;
 - (ix) a description of the whistleblowing policy ensuring that staff can safely report actual or potential breaches of regulatory or internal requirements;
 - (x) a description of the procedures ensuring that the issuer will comply with all the disclosure requirements towards the holders of the asset-referenced token set out in Article 30 Regulation 2023/1114];
2. The application shall contain the names and contact details of all third-party service providers of critical or important functions and a description of such third-party arrangements including all of the following:
- (i) the location of the third-party service provider and where applicable the location where the data are stored or processed;

- (ii) the rationale for the use of a third-party service provider to support or perform critical or important functions;
- (iii) the human, financial and technical resources of the third-party service provider related to the critical or important function;
- (iv) the applicant issuer's internal control system for monitoring and managing the arrangement with the third-party provider;
- (v) the business continuity plans in the event that the third-party service provider cannot provide continuity of service;
- (vi) the content of the contractual arrangements regarding the obligation to ensure information access and inspection and audit rights to both the applicant issuer and the competent authority;
- (vii) the reporting line to the management body.

Article 6

Information on the internal control framework

1. The application shall contain a comprehensive description of the applicant issuer's internal control framework including all the following information:
 - (i) a comprehensive description of the internal compliance function having sufficient authority, stature, resources and direct access to the management body;
 - (ii) a comprehensive description of the risk management framework, and of the risk management function where it is established, or where in accordance with proportionality criteria it is entrusted to a third-party provider, of the related arrangements in accordance with Article 5, paragraph (2);
 - (iii) a comprehensive description of the risk management systems and controls, explaining the applicant's strategy for identifying, assessing, monitoring, mitigating and reporting all risks the applicant is or might be exposed to, including risks to the holders of an asset-referenced token, market, liquidity, concentration, operational, ICT, reputational, legal, conduct, compliance, ESG, money laundering and terrorism financing and strategic risks. Such description shall also include the applicant's risk appetite statement and its risk tolerance, including the envisaged processes and measures to manage the identified risks within the risk appetite;
 - (iv) a comprehensive description of the internal audit function where it is established or, in accordance with proportionality criteria, in case it is entrusted to a third-party provider, a comprehensive description of the related arrangements in accordance with Article 5, paragraph (2), as well as the name and contact details of the firm that will be appointed as external auditor;
 - (v) an explanation of the governance arrangements implemented to ensure the separation and adequate segregation of duties of the business lines and units from the internal control functions, and an explanation of the arrangements implemented to ensure the independence of the internal control functions including through their direct access to the management body in its management and in its supervisory function.
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2. The application shall contain a description of the arrangements and assigned ICT and human resources to ensure that the applicant issuer complies with Regulation (EU) 2022/2554 on digital operational resilience for the financial sector, including all of the following information in relation to the applicant issuer's ICT systems, protocols and tools:
 - (a) a detailed technical documentation including a description of the ICT risk management framework in accordance with Article 6(1) of Regulation (EU) 2022/2554, demonstrating the applicant issuer's ability to address ICT risk rapidly, efficiently and comprehensively and to ensure a high level of digital operational resilience;
 - (b) details showing that the applicant issuer maintains updated ICT systems, protocols and tools that are appropriate, reliable, equipped with sufficient capacity to accurately process the data necessary for the performance of activities and the timely provision of services, and technologically resilient in accordance with Article 7 of Regulation (EU) 2022/2554;
 - (c) a detailed description of the security policy demonstrating that the applicant issuer's systems and procedures are capable to protect the availability, authenticity, integrity and confidentiality of data, information assets and ICT assets, including those of their customers in accordance with Article 9(4) of Regulation (EU) 2022/2554.
 - (d) a comprehensive description of the ICT process and systems showing the ability to provide the applicant issuer with reliable information and data to support risk data aggregation capabilities and data reporting requirements.
3. The application shall contain a description of the business continuity plan and policy which will aim at ensuring that the issuer's ability to operate on an on-going basis and to limit losses in the event of severe business disruption. For this purpose, the business continuity plan shall include the mapping of the essential data and functions, as well as an overview of available back-up and recovery systems as well as the availability of key staff in business continuity situations in line with Article 34(8) of Regulation (EU) 2023/1114 and Article 11(1) of Regulation (EU) 2022/2554.
4. Where asset-referenced tokens are issued, stored and transferred using a proprietary distributed ledger technology or similar technology operated by the issuer or by a third-party acting on its behalf, the application shall illustrate the functioning of the distributed ledger technology or of similar technology covering all of the following information:
 - (a) the description of the applicant issuer's legal title towards the DLT or similar technology, whether it is right of property or other contractual relationships providing control of the distributed ledger technology or of the similar technology to the applicant issuer, irrespective of the circumstance that the distributed ledger technology is operated by a different undertaking;

- (b) the name and contact details of the operator or operators of the DLT if different from the applicant issuer;
 - (c) the applicant issuer's or third-party operator's plan on risk identification, monitoring, assessment, mitigation, and prevention, also having regard to the potential spill-over to other crypto-assets issued, transferred or stored on that distributed ledger technology and the related crypto-asset service providers, as well as the plan on the regular technological maintenance and update of the distributed ledger technology or of similar technology;
 - (d) a technical and security audit performed by an independent third party on the consistency of the DLT functioning with quality standards in use in the market, and on the appropriateness and adequacy of the plans referred in letter (c);
 - (e) in case the proprietary distributed ledger technology is permissioned, a detailed description of the transparency mechanisms;
5. Where cooperation arrangements between the applicant issuer and specific crypto-assets service providers are envisaged, the application shall contain a detailed description of the crypto-asset service provider's current internal control mechanisms and procedures ensuring the compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and, where applicable, Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets. Such detailed description shall include a forward-looking assessment of the continuous compliance with such obligation for the three-year time horizon of the applicant issuer's business plan. Such description and forward-looking assessment prepared by the specific crypto-asset service provider may be exchanged by the competent authority with the competent authorities for anti-money laundering and counter-terrorist financing, financial intelligence units in accordance with Article 20, paragraph (2), second-subparagraph, of Regulation (EU) 2023/1114. Such a description and forward-looking assessment should also be submitted in case the applicant issuer is a crypto-asset service provider.

Question for consultation

Question n. 2: Do you consider that the information requirements about the internal control framework are sufficiently clear and exhaustive?

Question n. 3: Do you consider that Article 6(4) captures in a clear and correct manner all necessary information about the functioning of proprietary DLT or other similar technology where ARTs are issued, transferred and stored and that is operated by the issuer or a third-party operator acting on the issuer's behalf?

Article 7

Liquidity management, reserve assets and redemption rights

1. The application shall contain the following information ensuring compliance with the requirements on liquidity management and on the reserve assets:
 - (i) the comprehensive and detailed framework illustrating the constitution, composition, management, and segregation of the reserve of assets, in accordance with the requirements set out in Article 36 of Regulation (EU) 2023/1114, and in the EBA RTS on reserve of assets. Where the applicant applies for voluntary classification of asset-referenced tokens as significant asset-referenced tokens, the framework shall contain the liquidity management policy and procedures. The framework shall also illustrate the reporting lines to the management body and how the management body's responsibility for the prudent management of the reserve of assets will be ensured;
 - (ii) the clear and detailed policy describing the stabilisation mechanism of the asset-referenced token for which the authorisation is sought;
 - (iii) the name of the external consultant who will be in charge of the independent audit on the reserve of assets every six months in accordance with Article 36, paragraph (9) of Regulation (EU) 2023/1114;
 - (iv) the detailed policy and procedures on the custody of the reserve assets, including the selected custody modality, ensuring compliance with the requirements set out in Article 37 of Regulation (EU) 2023/1114;
 - (v) the clear and detailed investment policy of the reserve assets in accordance with the requirements set out in Article 38 of Regulation (EU) 2023/1114 and with EBA RTS on the financial instruments that can be considered highly liquid and bearing minimal market risk, credit risk and concentration risk in accordance with Article 38(5) of Regulation (EU) 2023/1114;
 - (vi) the details of the contractual arrangements entered into with third-parties for the operation, the investment and the custody of the reserve assets, in accordance with the policies referred to in points (iv) and (v). Such detailed description shall indicate the name and contact details of the third-party service providers, and illustrate the roles, responsibilities, rights and obligations of both the issuers of asset-referenced tokens and the third-party service providers, including the law applicable to the contract, and the requirements set out in Article 5, paragraph (2), as applicable.

In case of contractual arrangements with third party service providers for the custody of the reserve of assets, the description shall include the measures taken by the third-party service provider to ensure legal and operational separation from its own assets.

2. The application shall contain a clear and detailed policy and procedures ensuring that the redemption of rights granted to the holders of the asset-referenced tokens in accordance with Article 39 of Regulation (EU) 2023/1114 will be met, and an outline of the redemption plan to be submitted in accordance with Article 46 of Regulation (EU) 2023/1114.

Question for consultation

Question n. 4: Do you consider that the information requirements about the policies and procedures on the composition and management of the reserve of assets, as well as on the custody and investment of the reserve of assets are sufficiently clear and comprehensive?

Article 8

Identity and proof of good repute, knowledge, skills, experience and of sufficient time commitment of the members of the management body

- 1 An application for authorisation as an issuer of an asset-referenced token shall provide for each member of the management body all of the following personal individual details and information on good repute, knowledge, skills, experience, and time commitment:
 - (a) the person's full name and, where different, name at birth;
 - (b) the person's place and date of birth, address and contact details of the current place of residence and of any other place of residence in the past ten years, nationality(ies), and personal identification number or copy of an ID card or equivalent;
 - (c) details of the position held or to be held by the person, including whether the position is executive or non-executive, the start date or planned start date and, where applicable, the duration of the mandate, and a description of the person's key duties and responsibilities;
 - (d) a curriculum vitae containing details of education and experience (including professional experience, academic qualifications, other relevant training), including the name and nature of all organisations for which the person has worked and the nature and duration of the functions performed, in particular highlighting any activities, within the scope of the position sought, relevant to financial services, crypto-assets, or other digital assets, DLT, information technology, cybersecurity, digital innovation or management experience;
 - (e) personal history, including all of the following, in respect of the nationality or nationalities held by the person, and of the person's places of residence of the last ten years if different from the country of nationality or nationalities:

- (i) criminal records, including criminal convictions and any ancillary penalties, and relevant information on pending or concluded criminal proceedings or investigations (including on money laundering, financing of terrorism, fraud or professional liability), relevant civil and administrative cases and disciplinary actions, including disqualification as a company director, bankruptcy, insolvency and similar procedures, through an official certificate or an equivalent document or, where such certificate does not exist, any reliable source of information concerning the absence of criminal convictions, investigations and proceedings. Official records, certificates and documents shall have been issued within three months prior to the submission of application for an authorisation;
 - (ii) a statement of whether the person or any organisation managed by the person has been involved as a debtor in insolvency proceedings or a comparable proceeding;
 - (iii) information about investigations, enforcement proceedings or sanctions by a supervisory authority which the individual is or has been directly or indirectly involved in;
 - (iv) information about refusal of registration, authorisation, membership or licence to carry out a trade, business or profession, or the withdrawal, revocation or termination of registration, authorisation, membership or licence, or expulsion by a regulatory or government body or by a professional body or association;
 - (v) information about dismissal from employment or a position of trust, fiduciary relationship or similar situation, or the fact that the person was asked to resign from employment in such a position, excluding redundancies;
 - (vi) information about whether another competent authority has assessed the reputation of the individual, including the identity of that authority, the date of the assessment and the evidence of the outcome of that assessment;
 - (vii) information about whether an authority from another, non-financial, sector has assessed the individual, including the identity of that authority, the date of the assessment and evidence of the outcome of that assessment;
- (f) a description of all financial and non-financial interests that could create potential material conflicts of interest affecting his or her perceived trustworthiness in the performance of the mandate as member of the management body of the issuer of asset-referenced token, including, but not limited to:
- (i) any financial interests, including crypto assets, other digital assets, loans, shareholdings, guarantees or security interests, whether granted or received, and non-financial interests or relationships, including close relations such as spouse, registered partner, cohabitant, child, parent or other relation with whom the person shares living accommodation, between the person or his or her close relatives or any company that the person is closely connected with, and the applicant issuer of the asset-referenced token, its parent undertaking

- or subsidiaries, including any members of the management body or any person holding a qualifying holding in the applicant issuer of the asset referenced-token;
- (ii) whether or not the person conducts any business or has any commercial relationship, or has had such relationship over the past 2 years, with any of the persons listed in point (f) n. (i), or is involved in any legal proceedings with any such persons;
 - (iii) whether or not the person and the person's close relatives have any competing interests with the applicant, its parent undertaking or its subsidiaries;
 - (iv) any financial obligations to the applicant issuer of asset-referenced tokens, its parent or its subsidiaries;
 - (v) any positions of international, national or local political influence held over the past 2 years;
 - (vi) where a material conflict of interest is identified, a statement of how that conflict will be satisfactorily mitigated or remedied, including a reference to the outline of the conflicts of interest policy;
- (g) information to show that the person has sufficient time to commit to the mandate, including:
- (i) the estimated minimum time, per year and per month, that the person will devote to the performance of his or her functions within the applicant issuer of asset-referenced tokens;
 - (ii) a list of the predominantly commercial mandates that the person holds;
 - (iii) a list of mandates which are pursuing predominantly non-commercial activities or are set up for the sole purposes of managing the economic interests of the person concerned;
 - (iv) the size of the companies or organisations where the mandates referred to in point (iii) are held, including total assets, whether or not the company is listed and the number of employees of those companies or organisations;
 - (v) a list of any additional responsibilities associated with the mandates referred to in point (iv) of this point (g), including chairing a committee;
 - (vi) the estimated time in days per year dedicated to each mandate;
 - (vii) the number of meetings per year dedicated to each mandate.
- 2 The results of any suitability assessment of each person performed by the applicant issuer, including the following information:
- 3 the relevant board minutes;
 - 4 the document about the outcome of the suitability assessment;
 - 5 a statement of whether the individual has been assessed as having the requisite experience and, if not, but provided the minimum requisite experience is met, details of the training plan imposed, including the content, provider and date by which the training plan will be completed.

- 6 A statement regarding the applicant issuer of asset-referenced tokens overall assessment of the collective suitability of the management body documenting that collectively the management body possesses the appropriate knowledge, skills and experience to manage the issuer of asset-referenced tokens, including relevant board minutes or suitability assessment report or documents.

Article 9

Information relating to shareholders or members with qualifying holdings

- (a) The application shall contain information on the sufficiently good repute of shareholders and members with direct and indirect qualifying holdings in the applicant issuer, including all of the following: a chart setting out the holding structure of the applicant issuer, including the breakdown of its capital and voting rights and the names of the shareholders or members with qualifying holdings;
- (b) for each shareholder or member holding a direct or indirect qualifying holding in the applicant, the information and documents on their identify and reputation set out in:
- (i) Article 1, paragraph (1) and in Article 2, letters (a), (b), (d), (f) and (g) [EBA RTS on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114], in case of natural persons; or
 - (ii) Article 1, paragraph (2), (3), (4) or (5) and in Article 3, paragraph (1), letters (a) to (e), or in Article 3, paragraph (2) of [EBA RTS on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114] in case of legal persons;
- (c) the identity of each member of the management body of the applicant issuer who has been or will be appointed by, or following a nomination from, such person with qualifying holdings, together with, to the extent not already provided, the information set out in Article 8, paragraphs (1) and (2);
- (d) each shareholder or member holding a direct qualifying holding in accordance with point a) above shall indicate the following information about its holding:
- (i) the number and type of shares or other holdings subscribed;
 - (ii) the nominal value of such shares or other holdings;
 - (iii) any premium paid or to be paid;
 - (iv) any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties;
- (e) information referred to in Article 6, letters (b), (d) and (e) of the [EBARTS on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114];

- (f) the information referred to in Article 8 of the [EBA RTS on information for notification of acquisition or increase of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114].

For purposes of letter (b), indirect qualifying holdings are those identified based on paragraphs (1) and (3) of Article 4 of Commission Delegated Regulation XX [EBA RTS information for notification acquisition of qualifying holdings, in accordance with Article 42(4) of Regulation 2023/1114].

Article 10
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

[For the Commission
On behalf of the President

[Position]

Question for consultation:

Question n. 5: Do you agree with the general content and level of detail of the information to be contained in the application?

Draft implementing technical standards on information to be included in an application for authorisation to offer to the public or to seek admission to trading of asset-referenced tokens under Article 18(7) of Regulation (EU) 2023/1114

COMMISSION IMPLEMENTING REGULATION (EU) .../... of **XXX**

laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to the establishment of standard forms, templates and procedures for the information to be included in the application, in order to ensure uniformity across the Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council on the Market in crypto-assets⁶, and in particular to Article 18(7) thereof,

Whereas:

- (1) Commission Delegated Regulation XXX/XXX/EU [RTS information for authorisation] specifies the information to be contained in an application for authorisation to offer to the public or seek admission to trading of asset-referenced tokens.
- (2) For the purposes of harmonisation, it is important that applicant issuers submit the information required for such authorisation in a uniform manner, using the same standard forms, templates and procedures across the Union.
- (3) To ensure a clear, transparent and uniform process applicable to the assessment of the application submitted to the competent authorities, it is opportune to clarify some procedural aspects and establish common reference dates.
- (4) For purposes of legal certainty, it is worth clarifying this Regulation should apply to all applications for the offer to the public or admission to trading of asset-referenced tokens submitted on or after the day of entry into force of this Regulation and that it does not apply to applications submitted before its entry into force, the assessment of which has not been completed by the competent authority.
- (5) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority. The European Banking Authority has closely cooperated with the European Securities and Markets Authority for the development of the draft implementing technical standards.
- (6) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking

⁶ OJ L 150, of 9.6.2023, p. 40.

Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁷,

HAS ADOPTED THIS REGULATION:

Article 1

Submission of the application for authorisation to offer to the public or seek admission to trading of an asset-referenced token

1. Applicant issuers shall submit an application containing the information set out in Article 18(2) of Regulation (EU) 2023/1114, as specified in Articles 1 to 10 of Delegated Regulation (EU) XXX/XXX [RTS information for authorisation] to their competent authority by filling in the standard form and template set out in Annex I and II.
2. Competent authorities shall indicate on their website the contact details for submitting an application for authorisation and shall make available on their website the standard form and template set out in Annex I and II.
3. Competent authorities shall indicate on their website the modalities for the submission of the application with all the requested information and documents, via upload on an internet portal indicated on the competent authority's website or by other electronic means or, for specific documents to be submitted in original in accordance with national law, in paper form.
4. Where competent authorities require the submission of part of the information also in paper form, the information submitted in paper form shall prevail.

Article 2

Assessment of completeness of applications

1. Applications shall be deemed to be complete if they contain all the required information referred in Article 1, paragraph (1) with the appropriate content and level of detail to enable the competent authority to carry out the assessment of the application. Where, in accordance with Article 1, paragraph (4), the competent authority requires part of the information in paper form, the application shall not be considered complete until the receipt of the information in paper form.
2. Where the information provided in the application, including the white paper, is assessed and found to be incomplete, the competent authorities shall immediately notify the applicant pursuant to Article 20, paragraph (1) of Regulation (EU) 2023/1114 and indicate the missing required information. Such notification shall be sent by the competent authority in paper format or by electronic means and shall indicate the contact details, the modalities, whether via upload on the internet portal, by electronic means or in paper form, and the deadline for the submission of the missing information, in accordance with Article 20, paragraph (3) of Regulation (EU) 2023/1114.

⁷ Regulation (EU) No 1093/2010 of the European Parliament and of the Council [*+ full title*], (OJ L [number], [date dd.mm.yyyy], [p.]).

3. Upon an application being assessed as complete in accordance with paragraphs (1) of Article 20 of Regulation (EU) 2023/1114, the competent authority shall inform the applicant issuer of that fact, together with the date of receipt of the complete application or, as the case may be, the date of receipt of the information that completed the application.

Article 3
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

On behalf of the President

[Position]

Question for consultation

Question n. 6: Do you consider that Annex II to the ITS is sufficiently clear in the identification of the information requested for each field and sub-field?

ANNEX I

Submission letter for applications for authorisation to offer to the public or to seek admission to trading of an asset-referenced token

Place and date: _____

FROM:

Name of the applicant:

Trading name, if different:

Address:

Contact details of the designated contact person within the applicant:

Name:

Phone:

E-mail:

Contact details of the designated professional adviser:

Name

Address:

Phone:

E-mail:

TO:

Competent Authority:

Address:

Member State:

This is an application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token, submitted in accordance with Article 18(1) of Regulation (EU) 2023/1114, and with Commission Implementing Regulation (EU) XXXX/XXXX laying down implementing technical standards with regard to standard forms, templates and procedures for the information to be included in the application.

1. Type of application (tick the relevant box):

- a) First authorisation to offer to the public or to seek admission to trading an asset-referenced token
- b) New authorisation to offer to the public or to seek admission to trading of an asset-referenced token following a previously granted authorisation by the same competent authority

2. Voluntary classification of asset-referenced tokens as a significant asset-referenced token

Please specify if the application includes the request for voluntary classification of the asset-referenced token as a significant asset-referenced tokens (please tick Yes or No)

- Yes
- No

We certify that the information provided in this application is true, accurate, complete and not misleading. Unless specifically stipulated otherwise, the information is up-to-date on the date of this application.

Information indicating a future date is explicitly identified in the application and we undertake to notify the authority in writing without delay if any such information should turn out to be untrue inaccurate, incomplete or is misleading.

[In case of a new application following a previous authorisation to offer to the public or to seek admission to trading of an asset-referenced token granted by the same competent authority, the submission letter should contain the following statement:

We acknowledge that an authorisation to offer to the public/to seek admission to trading of an asset-referenced token was granted by [this competent authority: name of the competent authority] on [DD/MM/YYYY] and in accordance with Article 18(3) of Regulation (EU) 2023/1114 the current application only contains the information that has changed in the meantime. We also certify that any information which has not been resubmitted in the current application is identical to that already in possession of the competent authority and that it is still true, accurate and up-to-date.

ANNEX II

Template for the application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token

Information to be provided to the competent authority

Application for authorisation to offer to the public or to seek admission to trading of an asset-referenced token				
Information to be provided to the competent authority				
Field	Sub-field	Sub-field	Reference to Commission Regulation XXXX/XX/EU (RTS information for authorisation)	
1	Type of application	1	<p>Has the applicant issuer previously been granted an authorisation to offer to the public or to seek admission to trading of an asset-referenced token by the Authority?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If yes, please submit only the information that has changed since the submission of application for authorisation, which has been granted</p>	Article 1(2)
		2	<p>Does the application include the request for voluntary classification of the asset-referenced token as significant asset-referenced token?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	Article 4(4)
2.1	Identification of the applicant issuer:	1	Full name and contact details of the person within the applicant issuer to contact regarding the application	Article 2(1), (a) and (b)

	contact persons for the application	2	Full name and contact details of the principal professional adviser (where applicable)	
2.2	Identification of the applicant issuer: information on the applicant issuer's identity and legal form	1	Is the applicant issuer a legal person? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please submit information in sub-fields 2 and 4; if no, please submit the information in sub-fields 2, 3, and 4	
		2	Full legal name, trading name(s), internet address(es), marketing channels and logo(s), and any envisaged changes where applicable	Article 2(1)(c)
			LEI	Article 2(1)(d)
			Legal form, date and Member State of incorporation or formation, address(es)	Article 2(1), (e) – (g)
			Registration details in the relevant register where applicable and copy of the registration certificate	Article 2(1)(h)
			Instruments of constitution and the statute if contained in a separate document filed in the register under Article 16 Directive (EU) 2017/1132	Article 2(1)(i)
		3	Legal opinion certifying equivalent protection of third-party interests and of equivalent prudential supervision	Article 2(1)(j)
4	Date of accounting year end	Article 2(1)(k)		
3.1	Programme of operations: information on the business model, strategy and risk profile	1	White paper Legal opinion on the qualification of the asset-reference token	Article 3(1) Article 3(2)(a), point (i), n. 3.
		2	Information on the applicant issuer's business activities	Article 3(2)(a)
		3	Description of the business environment where the applicant issuer will operate	Article 3(2)(b)
		4	Description of the applicant issuer's overall business strategy and, where	Article 3(2)(c)

			applicable, group strategy and risk assessment	
3.2	Programme of operations: financial forecast information, and past financial information	1	Forecast financial information: accounting plans for the three years following the granting of authorisation on a baseline and stress scenario basis, the related planning assumptions, and an explanation linking the description of the business activities, the business environment, the business strategy and, where applicable, the group strategy.	Article 4(5), n. (i) to (ii)
		2	Calculation of the own funds requirements for the three year business plan time horizon	Article 4(5) n. (iv)
		3	Calculation of the amount and composition of the reserve of assets and their adequacy to ensure the permanent exercise of the redemption rights throughout the business time horizon	Article 4(5) n. (v)
		4	Past financial information at individual, consolidated and sub-consolidated level as applicable	Article 5(6)
4.1	Internal governance arrangements and structural organisation	1	Organisational chart, terms of reference of the management body, description of foreseen number and profile of human resources and technological resources, reporting procedure and arrangements, code of conduct, description of the complaints handling policy, description of conflicts of interest policy, description of market abuse policy, description of the whistleblowing policy, and description of procedure ensuring compliance with all the disclosure requirements	Article 5(1)
		2	The names and contact details of all third-party service providers of critical or important functions and a description of each such arrangement	Article 5(2)
4.2	Internal control framework: general aspects	1	Comprehensive description of the applicant issuer's internal control framework including: (i) the internal compliance function, (ii) the risk management framework and the risk management function or, where it is not established in accordance with proportionality criteria, the arrangements with third-party providers; (iii) the risk management systems and controls, including the	Article 6(1), n. (i)-(iv)-

			strategy for identifying, assessing, monitoring, mitigating and reporting all risks; and (iv) the internal audit function or, where it is not established in accordance with proportionality criteria, the arrangements with third-party providers.	
		2	An explanation of the governance arrangements implemented to ensure the separation and adequate segregation of duties of the business lines and units from the internal control functions, and independence of the internal control functions	Article 6(1), n. (v)
4.3	Internal control framework: ICT risk management	1	Documented description of the ICT risk management framework, including ICT systems, protocols and tools demonstrating that they are in compliance with with Article 6(1), (7) and 9(4) of Regulation (EU) 2022/2554	Article 6(2),(a) to (c)
		2	Comprehensive description of the ICT process and systems showing the ability to provide the applicant issuer with reliable information and data to support risk data aggregation capabilities and data reporting requirements	Article 6(2),(d)
		3	A description of the business continuity plan and policy which will aim at ensuring that the issuer's ability to operate on an on-going basis and to limit losses in the event of severe business disruption	Article 6(3)
4.4	Internal control framework – Proprietary distributed ledger technology or similar technology	1	Does the applicant issue, transfer or store asset-referenced tokens in a proprietary DLT or a similar technology operated by the issuer or by a third-party acting on its behalf? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please submit information in sub-field 2	Article 6(4)
		2	The policy and procedure on the functioning of the DLT or similar technology covering (a) the description of the applicant issuer's legal title towards the DLT; (b) the name and contact details	Article 6(4), (a) to (e)

			of the operator if different from the issuer; (c) the applicant issuer's or third-party operator's plan on DLT risk identification, monitoring identification, assessment and mitigation, and prevention; (d) a technical and security audit by an independent third party on the consistency of the DLT functioning with quality standards in use in the market, and on the appropriateness and adequacy of the plans referred to above; (e) in case of permissioned DLT a detailed description of the transparency and control mechanisms	
4.5	Internal control framework: AML/CFT	1	In case of cooperation arrangements between the applicant issuer and specific crypto-assets service providers are envisaged, or where the applicant issuer is a crypto-asset service provider, a detailed description by the crypto-asset service provider of the its internal control mechanisms and procedures ensuring the compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849 and as applicable Regulation (EU) 2023/1113, including a forward-looking assessment of the continuous compliance with such obligations for the time horizon of the applicant issuer's business plan	Article 6(5)
5	Liquidity management, reserve assets and redemption rights	1	(i) Description of a comprehensive and detailed framework illustrating the constitution, composition, management, and segregation of the reserve of assets; (ii) a clear and detailed policy describing the stabilisation mechanism of the asset-referenced token; (iii) the detailed policy and procedures on the custody of the reserve of assets, including the selected custody modality; (iv) the clear and detailed investment policy of the reserve assets; (v) the details of the contractual arrangements entered into with third-parties for the operation, investment and the custody of the reserve assets	Article 7(1)

		2	The name of the external consultant who will be in charge of the independent audit on the reserve of assets every six months	Article 7(1), n. (iii)
		3	The liquidity management policy and procedures, the reporting lines to the management body and how the management body's responsibility for the prudent management of the reserve of assets will be ensured	Article 7(1), n. (i)
		4	Clear and detailed policy and procedures ensuring that the redemption of rights granted to the holders of the asset-referenced tokens in accordance with Article 39 MiCAR will be met, and an outline of the redemption plan to be submitted in accordance with Article 46 MiCAR	Article 7(2)
6	Members of the management body: identity and proof of good repute, knowledge, skills and experience	Information included in field 6, sub-fields 1-5 to be submitted for each member of the management body		
		1	Full name, name at birth, place and date of birth, address and contact details of the current place of residence, places of residence in the past ten years, nationalit(y/ies), identification number, copy of ID card	Article 8(1), (a) – (c)
		2	Curriculum vitae, including details of the position held, including start date and duration of mandate, description of key duties and responsibilities	Article 8(1)(d)
		3	Personal history, previous assessment(s) and criminal records	Article 8(1)(e)
		4	Description of all financial and non-financial interests with person indicated which would materially affect the perceived trustworthiness of the member	Article 8(1)(f)
		5	Information on time commitment	Article 8(1)(g)
		6	Results of any suitability assessment of each person performed by the applicant issuer and statement of the collective suitability of the management body	Article 8(2) and (3)
7	Shareholders and members with direct	Information included in fields 7.1 – 7.3 to be submitted for each shareholder or member with direct or indirect qualifying holdings in the applicant issuer		

	and indirect qualifying holdings in the applicant issuer: information on their sufficiently good repute	1	<p>Identification of shareholders and members:</p> <p>A chart setting out the holding structure of the applicant issuer with breakdown of its capital and voting rights and the names of the shareholders or members with qualifying holdings</p>	Article 9 (a)
		2	<p>Does the holding structure of the applicant issuer include shareholders acting in concert?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
7.1	Information on shareholders and members with direct or indirect qualifying holdings that are natural persons	1	<p>Information about the identity and the integrity of direct or indirect shareholders or members that are natural persons:</p> <ul style="list-style-type: none"> - identity of the natural person, in accordance with information requirements set out in Article 1(1) of [RTS information for notification of acquisition of QH] - criminal, administrative or civil convictions, sanction, on-going investigations and proceedings, in accordance with Article 2(a) of [RTS information for notification of acquisition of QH] - information on previous assessment in accordance with Article 2(b) of [RTS on information for notification of acquisition of QH]; - description of current business activities of the person and of any undertaking which the person directs or controls, in accordance with Article 2(d) of [RTS on information for notification of acquisition of QH]; - financial and non-financial interests of the person and information on how these interests are managed, in accordance with Article 2(f) and (g) of [RTS on information for notification of acquisition of QH] 	Article 9 (b), n. (i)
7.2	Information on shareholders and member with direct or indirect qualifying holdings that are legal persons	1	<p>Information about the identity and integrity of direct or indirect shareholders or members that are legal persons:</p> <ul style="list-style-type: none"> - identity of the legal person, ultimate beneficial owner, members of the 	Article 9(1)(b), n. (ii)

		<p>management body or persons who effectively direct the business and information relating to their suitability, as well as the other information requirements set out in set out in Article 1(2), (3), (4) or (5) as applicable of [RTS information for notification of acquisition of QH];</p> <ul style="list-style-type: none"> - criminal, administrative or civil convictions, sanction, on-going investigations and proceedings, as referred to in Article 3(1)(a)(i) of [RTS information for notification of acquisition of QH] relating to the shareholder or member; - information on previous suitability assessment, as referred in Article 3(1), (a)(ii) of [RTS on information for notification of acquisition of QH], - description of current business activities of the legal person and of any undertaking which the person directs or controls, as referred in Article 3(1)(a)(iii) of [RTS on information for notification of acquisition of QH]; - financial information including credit ratings and publicly available reports on any undertakings directly or indirectly controlled by the legal person as referred to in Article 3(1)(a)(iv) of [RTS on information for notification of acquisition of QH]; - description of financial and non-financial interests of the legal person and a description how these interests are managed, in accordance with Article 3(1)(b) and (c) of [RTS on information for notification of acquisition of QH]; - the legal person's shareholding structure with the identity of all shareholders exerting significant influence and their respective share of capital and voting rights including information on any shareholders agreements, in accordance with Article 3(1)(d) of [RTS on information for notification of acquisition of QH]; - where the legal person is part of a group, as a subsidiary or as the parent company, a detailed organisational chart of the group structure and infor- 	
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			<p>mation on the activities currently performed by the entities of the group, in accordance with Article 3(1)(d) of [RTS on information for notification of acquisition of QH].</p> <p>- where the direct or indirect member or shareholder has its head office in a third country. the information set out in Article 3(2) of [RTS on information for notification of acquisition of QH]</p>	
7.3	Information common to shareholders and members with direct or indirect qualifying holdings that are natural or legal persons	1	Identity and information on the member(s) of the management body of the applicant issuer who has been or will be appointed by the shareholder or member with qualifying holdings	Article 9(1)(c)
		2	Information on the qualifying holding: (number and type of shares or other holdings subscribed, the nominal value, any premium paid or to be paid, any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties)	Article 9(1)(d)
		3	<p>Information on the intention with regard to the qualifying holding (strategic investment, portfolio management):</p> <p>Information on actions in concert with other parties, including the contribution of those other parties to the financing of the proposed acquisition</p> <p>Content of intended shareholder's agreements with other shareholders in relation to the target entity</p>	Article 9(e)
		4	Information on the financing of the acquisition of the qualifying holding and of the business of the applicant issuer in order to prove their legitimate origin, in accordance with Article 8 [RTS on information for notification of acquisition of QH]	Article 9(f)

5. Accompanying documents

a. Draft cost-benefit analysis / impact assessment

As per Article 10(1) and Article 15(1) of Regulation (EU) No 1093/2010 (EBA Regulation), regulatory technical standards and implementing technical standards shall be accompanied by an Impact Assessment (IA) which analyses ‘the potential related costs and benefits.’ This section presents the IA of the main policy options included in this Consultation Paper (CP) on regulatory technical standards (RTS) on information for authorisation to offer to the public or to seek admission to trading of ARTs under Article 18(6) and (7) of Regulation (EU) 2023/1114 (MiCAR’).

MiCAR sets out a new legal framework applicable to legal persons or other undertakings intending to offer to the public or to seek admission to trading of ARTs, requiring such entities to submit an application for authorisation containing all the information set out in Article 18(2) MiCAR as specified by the RTS on information for authorisation, as well as the white paper, whose content is specified in Annex II MiCAR.

A. Problem identification

The application for authorisation submitted to the competent authority has to contain all the information set out in the RTS on information for authorisation (and the white paper), with the appropriate level of detail to enable the competent authority to carry out the prudential assessment of the application and to inform its decision to grant the authorisation. In addition, taking into account that the application file, including the white paper, has to be transmitted to the ECB or other central bank for the adoption of the Opinion on the interaction of the envisaged issuance of ARTs with monetary policy, monetary sovereignty, smooth functioning of the payment system and financial stability, the application has to contain all the necessary and relevant information to allow the adoption of such Opinion.

Lack of a standardised information in the application for authorisation may lead to diverging approaches and different practices across Member States with respect to the granting of authorisations, hindering the level playing field and leading to regulatory arbitrage across EU Member States. Against this background, the new EU regulatory framework mandates the EBA, in close cooperation with ESMA and the ECB, to develop an RTS to specify the information to be contained in the application for authorisation to offer to the public or to seek admission to trading of ARTs.

B. Policy objectives

The strategic objective of the RTS and ITS is the harmonisation of requirements relating to the submission of applications for the authorisation by applicant issuers. The operational objective of the RTS and ITS is to specify the detailed list of information to be provided to the competent authorities in the application for the authorisation to offer to the public or seek admission to trading of asset-referenced tokens (the RTS), along with set out of specific templates and clarify the procedure (the ITS).

C. Baseline scenario

In a baseline scenario no harmonisation of the information requested would be made, and the CAs would request information to inform their assessments based on the list set out in Article 18(2) MiCAR. Due to the general nature of these information requirements, the specific documentation and information requested may diverge significantly across MSs, which in turn may result in diverging approaches in granting authorisation. This may ultimately lead to regulatory arbitrage across MSs, with applicant issuers choosing the MSs with a more lenient approach to grant authorisation.

D. Options considered, Cost-Benefit Analysis, Preferred option

Section D presents the main policy options discussed and the decisions made during the development of the RTS and ITS. Advantages and disadvantages of the policy options and the preferred options resulting from this analysis are assessed below.

Policy issue 1: interaction with the information to be contained in the white paper and specified in Annex II MiCAR

The EBA considered two policy options as to the interaction between the content of the draft RTS on information for authorisation and the information contained in the white paper which is specified in Annex II MiCAR and that needs to be submitted together with the application.

Option 1a: the RTS on information for authorisation should avoid any duplication of information required to be contained in the white paper.

Option 1b: the RTS on information for authorisation should avoid requesting information already required to be contained in the white paper as much as possible, however some limited repetition is acceptable where necessary to ensure that the application is comprehensive and with the appropriate level of detail.

As specified in Article 18(2) MiCAR the application has to contain a set of information to be specified in the RTS on information for authorisation and the white paper, whose content is set out in detail in Annex II MiCAR. The RTS does not further specify the content of the white paper, considering the granularity of Annex II. However, it does require some limited duplication of information which is required for the white paper, for instance in relation to the description of the main features of the issuance.

It is acknowledged that whilst the white paper has to be submitted to the competent authority together with the application, the two requirements fulfill different objectives and are drafted and developed differently.

The white paper is a public document, fulfilling transparency purposes aimed at enabling prospective token holders to make an informed decision. In accordance with Article 19(2) MiCAR it has to be drafted in a concise and comprehensible form.

The application for authorisation is a confidential file submitted to the competent authority to enable carrying out an appropriate assessment about the compliance with the prudential requirements applicable to issuers of ARTs and that the applicant does not fall in any ground of refusal of the authorisation. This assessment may entail the request of the same or similar information to that required for the white paper having regard to specific importance that the information covers specific aspects in a comprehensive manner.

Option 1a, whereby information presented in the white paper could not be requested as part of the application to be submitted to the competent authorities would be rigid, and may lead to competent authorities not having the full information required to make a fully informed and reasoned decision. To make sure that the competent authority as well as the ECB or other central banks receive all necessary information organised in manner suitable to take their decision or adopt their Opinion, some requests of information that may already be included in the white paper are included in the RTS on information for authorisation, in line with Option 1b.

Option 1b has therefore been chosen as the preferred option.

Policy issue 2: Refusal of authorisation when the business model exposes the issuer or the sector to serious risk of money laundering or terrorist financing ('ML/TF')

Option 2a: Do not require specific information requirements enabling to assess whether the applicant issuer's business model exposes the issuer or the sector to money laundering or terrorist financing.

Option 2b: Include specific information requirements about the business model enabling the competent authority to assess whether the applicant issuer's business model exposes the issuer or the sector to serious risks of money laundering or terrorist financing.

Issuers of ARTs authorised under Article 21 MiCAR are not subject to AML/CFT obligations under Directive 2015/849/EU on preventing of the use of the financial system for the purposes of money laundering or terrorist financing ('AMLD') or Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets. At the same time, Article 21(2), letter (e) of MiCAR considers that an applicant issuer's business model that exposes the issuer or the sector to a serious risk of ML/TF is a ground for refusal of authorisation. Taking into account that blockchain technology enables transactions to occur completely in disintermediated way via the use of smart-contracts, an applicant issuer's business model envisaging direct contact with customers' funds or crypto-assets in exchange for ARTs would pose serious risks of ML/TF. In such circumstances, under Option 2a which does not envisage any further specifications related to ML/TF risk, the competent authority may have a ground for refusal of authorisation in accordance with of Article 21(2)(e) of the MiCAR.

According to Option 2b, the RTS on information for authorisation requires that the risk assessment within the programme of operations include ML/TF risk. This approach aims at enabling the competent authority to carry out a meaningful assessment of the application submitted by applicant issuers. In addition, the RTS requires clear indication of the mechanism of issuance, including crypto-asset services

providers involved in the issuance and redemption of the ARTs. Finally, the RTS also requires that the internal control systems of the crypto-asset service providers with which specific agreements are envisaged, are compliant with AML/CFT requirements and will continue to be compliant for at least the three-year business plan time period.

Therefore Option 2b was preferred.

Policy issue 3: Level of detail of the required information for purposes of assessment of the completeness of the application

Option 3a: Do not specify the level of detail of the required information for authorisation for purposes of assessing the completeness of the application

Option 3b: Specify that the application will be considered complete when it contains all the information set out in ITS with a level of detail enabling the competent authority to actually carry out the assessment of the authorisation

The first step of the authorisation process is the assessment of the completeness of the application. This step is preliminary to the prudential assessment of the application by the competent authority. At this stage, the competent authority assesses whether the application includes all the information required and with a sufficiently level of detail and content to enable the competent authority to conduct the prudential assessment. If no additional requirements are specified regarding the level of details of the information (Option 3a), the application may be considered complete regardless of the level of detail of the application, and the competent authorities without having all the necessary information. This in turn may lead to inefficiencies of assessments and potential rejections due to the lack of sufficiently substantiated information.

In order to enable the competent authority to actually carry out the assessment of the application, it is necessary not only that the application contains all the required information set out in the RTS on information for authorisation, but also that the information application contained in the application present a level of detail providing the appropriate substantive information to the competent authority. Therefore, this requirement should be explicit in the RTS.

Option 3b was preferred.

Cost-benefit analysis

The RTS and ITS on information for authorisations are expected to bring both costs and benefits to the applicant issuers and competent authorities. More generally, the issuers of ARTs will incur mostly costs related to the collection of data and preparation of the application for the competent authority, and for the competent authorities the costs relate to the resources required to assess the application completeness and the information within the application in a timely manner.

In terms of benefits, the issuers will be able to get a comprehensive view of all the regulatory requirements, ensuring there are no gaps in own programme of operations, internal governance and, and other policies. At the same time, the competent authorities will ensure that the entities that get authorisations are in line with the current requirements.

More specifically, focusing on the policy choices made in this RTS and ITS, the costs and benefits associated with the RTS and ITS are summarised in the table below. Overall, the benefits are expected to be larger than the costs.

Table 1. Costs and benefits of the RTS on information for authorisation

Stakeholders	Costs	Benefits
Issuers of ARTs	Need to explicitly tackle the ML/TF risk in the programme of operations	Possibility of tackling the ML/TF risk within the programme of operations, even when issuer not under AMLD.
Competent authorities	Resources needed to assess detailed applications	Operational efficiency, due to ensuring that the completeness of the file is assessed first, including the necessary level of detail of information

b. Overview of questions for consultation

Question 1. Do you consider that letter (a) of Article 3(2) captures in a clear and realistic manner all necessary requirements of the offer to the public or admission to trading of the asset-referenced tokens, including the mechanism for the issuance, redemption and distribution of the asset-referenced tokens?

Question n. 2: Do you consider that the information requirements about the internal control framework are sufficiently clear and exhaustive?

Question n. 3: Do you consider that Article 6(4) captures in a clear and correct manner all necessary information about the functioning of proprietary DLT or other similar technology where ARTs are issued, transferred and stored and that is operated by the issuer or a third-party operator acting on the issuer's behalf?

Question n. 4: Do you consider that the information requirements about the policies and procedures on the composition and management of the reserve of assets, as well as on the custody and investment of the reserve of assets are sufficiently clear and comprehensive?

Question n. 5: Do you agree with the general content and level of detail of the information to be contained in the application?

Question n. 6: Do you consider that Annex II to the ITS is sufficiently clear in the identification of the information requested for each field and sub-field?

c. Feedback on the public consultation

Summary of key issues and the EBA's response



Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Responses to questions in Consultation Paper EBA/CP/2023/15			
Question 1.			
Question 2.			
Question 3.			

