

THE CHAIRPERSON

John Berrigan
Director General
Directorate-General for Financial Stability,
Financial Services and Capital Markets Union (FISMA)
European Commission
Rue de Spa 2
1049 Brussels
Belgium

29 September 2023

Subject: EC request to the EBA for technical advice on two delegated acts on specific significance criteria and on supervisory fees under Regulation (EU) 2023/114 on markets in crypto-assets (MiCAR)

Dear Mr Berrigan,

The European Commission requested the EBA for technical advice by 30 September 2023 on two delegated acts under MiCAR concerning certain criteria for the classification of asset-referenced tokens (ARTs) and electronic money tokens (EMTs) as significant and the fees that are to be charged by the EBA to issuers of significant ARTs and EMTs.¹

The advice sets out a set of ‘core’ and ‘ancillary’ indicators for the assessment of ARTs, EMTs and their issuers against the relevant significance criteria (international scale and interconnectedness with the financial system). It also sets out a response to all elements relating to the calculation and apportionment of supervisory fees.

In the advice, the EBA also identifies gaps in the reporting obligations for issuers of ARTs and EMTs under MiCAR. These gaps, left unremedied, would limit the EBA’s overall ability to assess tokens against the criteria specified in this advice in addition to other criteria specified in Article 43 MiCAR. More generally, it will limit the EBA’s (and NCAs’) ability to assess the compliance of issuers with requirements under the Regulation and to monitor risks.

Ideally, these reporting gaps would be remedied via ‘Level 1’ changes addressing all relevant entities, including those outside the EBA sphere of competence. However, absent a legislative vehicle to enact such changes, the EBA anticipates the need for own-initiative Guidelines in

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https://www.eba.europa.eu/sites/default/documents/files/document_library/About%20Us/Missions%20and%20tasks/Call%20for%20Advice/2022/CfA%20DORA%20and%20MiCA/1050390/20221218%20Call%20for%20advice%20MiCA%20FINAL.pdf



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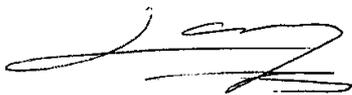
<https://eba.europa.eu>

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accordance with Article 16 of its the EBA Founding Regulation (Regulation (EU) 1093/2010). The EBA anticipates work to start on these Guidelines in Q1 2024.

The EBA remains at the disposal of the European Commission staff for any additional in preparing the two delegated acts and to ensure the reporting framework is sufficient to enable effective compliance and risk monitoring.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'José Manuel Campa', is positioned below the text 'Yours sincerely,'.

José Manuel Campa

CC: Alexandra Jour-Schröder, DG FISMA, Deputy Director-General, European Commission
Marcel Haag, DG FISMA, Director Directorate B, Horizontal Policies
Jan Ceysens, DG FISMA, Head of Unit B4, Digital Finance, European Commission
Mattias Levin, DG FISMA, Deputy Head of Unit B4, Digital Finance, European Commission

Encl: EBA technical advice on MiCAR delegated acts