
EBA Public hearing – MiCAR Prudential Package

Own funds, stress-testing and recovery plans

EBA Public hearing – Goals and Rules

Goals

- The EBA organises ‘public hearings’ during the public consultation period for its RTS / ITS / GL to **allow interested parties to ask clarifications**;
- The purpose of the hearing is for the EBA to present a summary of the CP and ask attendees whether they require additional explanations or clarifications from the EBA so as to be able to answer the questions in the CP;
- The **public hearing does therefore not replace written responses to the CP**: the EBA can only consider the views of stakeholders via written responses.

Housekeeping rules

- To avoid background noise, please stay muted during the presentation, unless you take the floor.
- To increase audio quality please turn off video streaming if you are not speaking.
- If you would like to intervene during the Q&A session, please identify yourself, either:
 - a) Raising your hand on Teams and when the floor is given to you, by providing your full name and organisation; or
 - b) Indicating in the Teams chat your name and on which topic you’d like to intervene; or
 - c) Writing your question / comment directly in the Teams chat.

EBA Public hearing - Structure

Morning – 10:00 to 12:00

- Consultation Papers on own funds, stress testing and recovery plans
 - Main content of the GL and RTS
 - Q&A sessions

Lunch – breakout area

Afternoon – 14:00 to 16:00

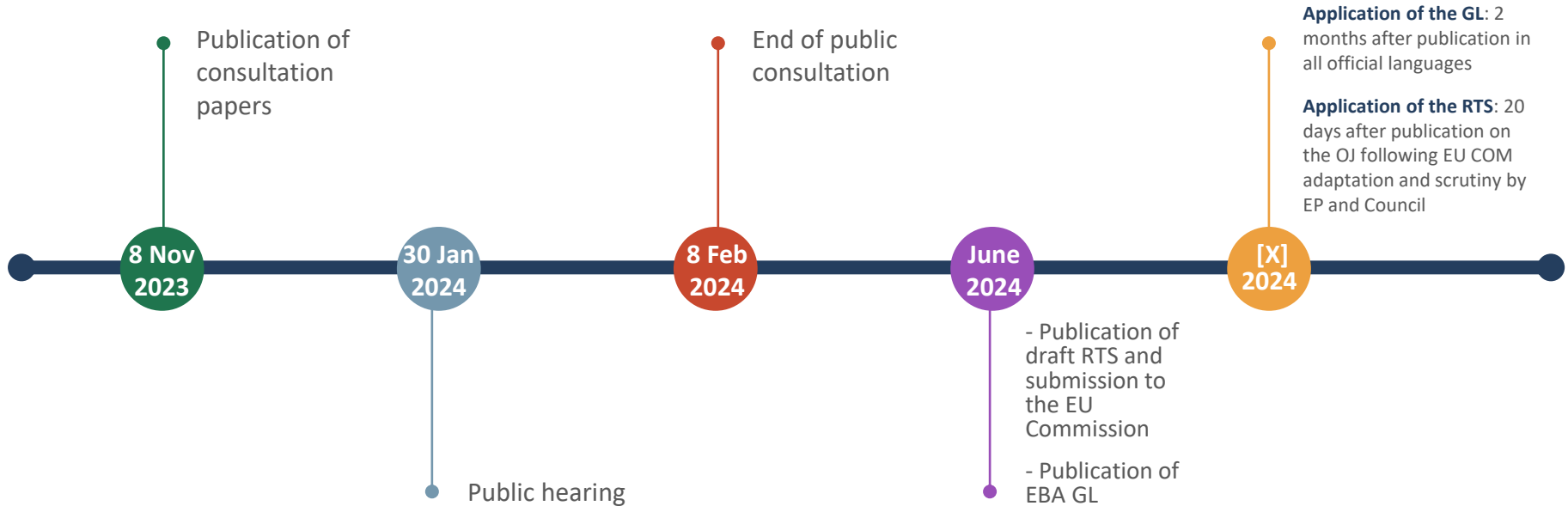
- Consultation Papers on liquidity and reserve assets
 - Main content of the GL and RTS
 - Q&A sessions

EBA Public hearing – Prudential Package

Why prudential package?

- This package comprises of several ‘prudential’ technical standards that are crucial to **mitigate some of the key risks identified** including the so call ‘**run-risk**’ between reserve assets and tokens (breaking the peg) of the issuer and the **possible contagion risk** to broader financial system.
- Also, some of this work interacts with the **ongoing work at the BCBS** on crypto-assets and the targeted adjustment to its standard on banks’ exposure to crypto assets.

EBA Public hearing - Timeline



Contents

- 1 RTS to specify the adjustment of own funds requirements and stress testing of issuers of asset-referenced tokens and of e-money tokens – Article 35(6) MiCAR
- 2 RTS on the procedure and timeframe to adjust own funds requirements for ‘significant’ issuers – Article 45(7)(c) MiCAR
- 3 GL on recovery plans – Article 46(6) MiCAR



1

Regulatory Technical Standards

to specify the adjustment of own funds requirements and stress testing of issuers of asset-referenced tokens and of e-money tokens – Article 35(6) MiCAR

Background and Mandate

Article 35(6) MiCAR

Issuers of ARTs and EMTs are **subject to own funds requirements**. Competent authorities, following an assessment based on specific criteria, will be able to **increase the amount of own funds** requirements of an issuer that is deemed to have a **higher degree of risk**.

Moreover, issuers are required to conduct **stress testing** based on plausible financial stress scenarios, and competent authorities will be able to **increase the amount of own funds** requirements of an issuer of asset-referenced tokens having regard to the **risk outlook and stress testing results**.

According to the mandate in Article 35(6) the EBA has developed these RTS specifying:

- a. **Procedure and timeframe** for an issuer of an asset-referenced token to **adjust to higher own funds requirements** when this is deemed to have a higher degree of risk;
- b. **Criteria** for competent authorities to follow during the assessment of such higher degree of risk; and
- c. **Minimum requirements** for the design of the **stress testing programmes**.

Own funds requirements for issuers of asset-referenced tokens shall be the highest, at all times, of: (a) EUR 350.000, (b) at least 2% of the average amount of the reserve assets, (c) a quarter overhead of the preceding year.

When, how and by how much to increase the amount of own funds due to higher risk?

When and how?

Increase in own funds in case **assessment of issuer** by competent authority (CA) **indicates higher degree of risk**

Assessment points are specified in Article 35(3) of MiCAR

The CA shall apply **all the criteria specified** in this RTS for the assessment

The CA shall use all relevant **historical and current information available**

Criteria

Whether the issuer is likely to **breach the requirements** referred to in Articles 34 or 36 to 39 of MiCAR within 12 months

Whether the **redemption at par of market value is not ensured** in normal or stressed conditions

Increased risk of significant deterioration of reserve assets value, issuer's financial situation or increased operational risk

By how much?

The competent authority shall perform the **evaluation on a case-by-case basis**

The competent authority may require an issuer of asset-referenced token to hold an amount of own funds which is **up to 20% higher** if the assessment indicates a higher degree of risk

Procedure to increase own funds:

1. Draft assessment
2. Notification
3. Plan

The draft assessment

The competent authority shall make available a **draft assessment** of higher degree of risk to issuer

The draft shall set out:

- Amount and percentage of own funds to be increase
- Reasoning to the higher degree of risk
- Materiality of the higher degree of risk
- Association with issuer's governance or business model
- Timeline to increase the own funds

Notification

The issuer shall be provided with **25 working days** within which it may **express its views** on the draft assessment

The competent authority shall **notify** the issuer with the **final assessment**

The plan

Within 20 working days from receipt of the notification the issuer shall **submit to the competent authority the plan** on how to increase the own funds

The plan shall:

- Include time-bound steps and procedures to carry out the increase within the set timeframe
- Ensure the funds consist of CET1 items and instruments with the relevant deductions and exemptions

Timeframe to adjust to higher own funds requirements

Higher degree of risk with material impact

- On the financial stability of the wider financial system
- On the financial stability of the issuer
- From deficiencies in issuer's governance or business model

Increase of own funds within 3 months (or shorter if decided by the CA)

Higher degree of risk without material impact

- On the financial stability of the wider financial system
- On the financial stability of the issuer
- From deficiencies in issuer's governance or business model

Increase of own funds within 1 year (or shorter if decided by the CA)

Design of stress testing programme

- Cover for at least the **minimum requirements** set out in Article 35(6)(c) of MiCAR and this technical standard.
- Stress testing programme is **workable and feasible**, and that stress testing results inform decision making at all appropriate management levels on risks that can have material impact
- Issuers shall **assess their stress testing programme** to determine their **effectiveness** and **robustness** on at least **annual** basis
- Stress testing programme shall be **appropriately documented** and used across organisation

Stress testing 1/2

Types of stress testing and minimum frequency

- ARTs issuers shall, at least, implement a **solvency stress test** and a **liquidity stress test**
- Solvency stress tests: at least **semi-annually (quarterly if issuers of significant ARTs)**
- Liquidity stress-tests: **at least monthly** for all issuers of ARTs

(Guidelines on liquidity stress testing will be presented in the afternoon)

Risk categories and methodologies

- Risks to the **value, transferability, liquidity** or **exchangeability** of the ARTs and reserve assets
- Risks arising from **systems, distributed ledger or any technology used** for issuance or transfer of ARTs
- Risks arising from **contractual arrangements** with other issuers, CASPs, financial institutions, etc
- The issuer shall use **historical and/or hypothetical scenarios** with **time horizon up to 3 years** for solvency stress-test and **up to 1 year** for liquidity stress-test

Stress testing 2/2

Internal governance arrangements

- The stress testing programme of the issuer shall be **adopted by its management body**
- The stress testing programme shall include an **assessment of the knowledge, skills and experience of the members of the management body in key areas**
- The stress testing programme shall be executed **in accordance with the internal policies and procedures, appropriately documented and communicated** across business lines
- The **outputs of stress tests shall be used as inputs to the process of establish risk appetite and limits** for issuer and shall act as a planning tool to determine the effectiveness of new and existing business strategies and assess the possible impact on own funds and liquidity

Relevant data infrastructure

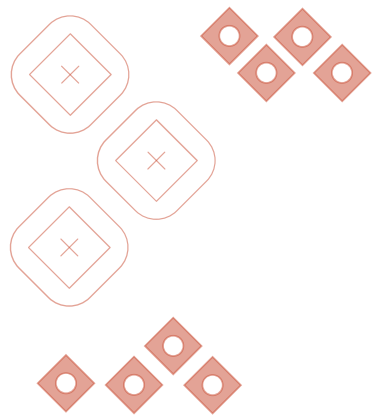
- The stress-testing programmes shall be supported by an **adequate data infrastructure**
- The data infrastructure shall ensure a **continuous and consistent ability to conduct stress testing**
- The data infrastructure shall allow for both **flexibility** and appropriate levels of **quality and control**
- The data infrastructure shall be **proportionate to issuer's size, complexity, risk and business profile**

Q&A

Questions for consultation



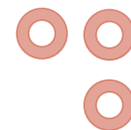
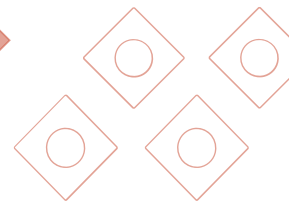
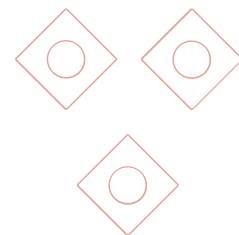
- Question 1. Is the procedure clear and the timelines for the issuer to submit the plan reasonable?
- Question 2. Are the timeframes for issuers to adjust to higher own funds requirements feasible?
- Question 3. During the period when own funds need to be increased by the issuer, should there be more restrictions on the issuer to ensure timely implementation of the additional own funds requirements, for example banning the issuance of further tokens?
- Question 4. Do you agree with the criteria to identify if an issuer has a higher degree of risk?
- Question 5. Do you agree with the procedure to assess whether an issuer has a higher degree of risk?
- Question 6. Do you consider the criteria and their evaluation benchmarks sufficiently clear?
- Question 7. Do you agree with the need for a solvency and liquidity stress-test and the requirements of the stress-test?
- Question 8. Do you agree with the frequency and time horizon of the solvency and liquidity stress-test? Should there be more differentiation between significant and not-significant issuers? Should the stress testing be more frequent for issuers of asset-referenced tokens referenced to official currencies?
- Question 9. Should a reverse stress testing requirement/methodology be introduced?
- Question 10. Do you have any other comments in relation to the stress-testing part in these RTS?
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2

Regulatory Technical Standards

on the procedure and timeframe to
adjust own funds requirements for
'significant' issuers – Article 45(7)(c)
MiCAR



Background and Mandate

Article 45(7)(c) MiCAR

Issuers of ARTs and EMTs are **subject to own funds requirements**, while issuers of **significant** asset-reference tokens should hold higher amounts of own funds (**3% of the average amount of the reserve assets** instead of 2%).

According to the mandate in Article 45(7)(c) the EBA has developed these RTS specifying **procedure and timeframe** for an issuer of asset-referenced tokens to **adjust its own funds to higher amounts** when an asset-referenced token it issues, or has issued, is classified as **significant**.

Own funds requirements for issuers of significant asset-referenced tokens: from 2% to 3% of the average amount of the reserve of assets.

How to increase the amount of own funds from 2% to 3%?

Procedure

The **asset-referenced token or e-money tokens are classified as significant**

The competent authority has **25 days to notify** the issuer the timeframe to adjust the own funds to at least 3% of reserve assets

The issuer has **20 days to submit a plan, following the notification**, on how to increase the own funds. Issuer shall discuss and agree the feasibility of such plan with the relevant competent authorities.

Timeframe and implementation

Timeframe to increase own funds, determined by competent authority, maximum is **3 months from moment of classification**

Implementation of plan will be **closely monitored** by competent authorities

Issuer should **notify to the competent authority on steps taken** including a final notification of the adjustment completion

Q&A

Questions for consultation

- Question 1. Is the procedure clear and the timelines for the issuer to submit the plan reasonable?
- Question 2. Are the timeframes for issuers to adjust to higher own funds requirements feasible?
- Question 3. During the period when own funds need to be increased by the issuer, should there be more restrictions on the issuer to ensure timely implementation of the additional own funds requirements, for example banning the issuance of further tokens?





3

Guidelines

on recovery plans – Article 46(6) MiCAR

Background

Articles 46 and 55 MiCAR

Issuers of ARTs and EMTs to draw up and maintain recovery plans providing for measures to be taken to restore compliance with the requirements applicable to the reserve of assets when the issuer fails to comply with those requirements

The plan shall also include the preservation of the issuer's services related to the issued ARTs/EMTs, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that might significantly disrupt operation

The plan has to be notified to the CA within 6 months from the authorisation/approval or offer start date. Where applicable, the issuer has to notify the plan to its resolution and prudential supervisory authorities

EBA' mandate:
specify the
format and the
information to
be contained in
the recovery
plan

Information to be included

High-level approach: detail and required information calibrated depending on type of issuer, composition of the reserve of asset and significance of the token

Issuers should identify and calibrate the most relevant recovery plan indicators based on their risk profile and operating environment

Format

Clear and understandable language

Include that information will be periodically reviewed and updated, including in case of material changes in the business or financial profile of the issuer and/or of the token issued

Key elements of the recovery plan

1

Summary of the key elements of the recovery plan, also highlighting the main changes to the previous version submitted to the CA

4

Communication and disclosure plan, outlining how the issuer intends to communicate internally and externally + timelines

It should also cater for scenarios where it is unlikely that the issuer will recover operations or fulfil obligations

2

Information on governance

- Clear and detailed description of the governance process
- Description of escalation procedures and time limit for decisions
- Description of quantitative and qualitative recovery plan indicators and monitoring thresholds
- List of categories of recovery plan indicators
- Concrete indicators/thresholds to be chosen and calibrated by issuers
- **De-pegging indicator**

3

Recovery options

- Further guidance on the recovery options laid down in MiCAR
- At least one additional recovery option to strengthen the capital position and one to improve the liquidity position
- Include preparatory measures and feasibility assessment
- Include how issuers will preserve services related to ARTs and EMTs

Interplay between different recovery obligations

Multiple issuers issuing the same token

To ensure effective coordination among the respective recovery plans:

- Align recovery plan indicators
- Set thresholds of token-related indicators at the same level
- Recovery options are consistent with each other
- Activation and execution are agreed and coordinated + ensure fair treatment of all token holders

Issuers offering two or more tokens to the public

Format: one recovery plan for each ART/EMT issued and calibrate token-specific indicators and thresholds

CAs to consider if issuers should draft separate recovery plans or a single document divided into separate sections

In any case:

- Issuer-related indicators and thresholds should be set at the same level
- Recovery options non contradictory
- Implementation does not interfere with provision of services related to other tokens issued

Issuers subject to BRRD

If both (BRDD and MiCAR) CAs agree, issuers can submit the plan to the MiCAR CA by cross-referencing any information already included in the BRRD plan – outstanding information must be included by means of a separate statement

[This option is not applicable to credit institutions and investment firms issuing s-ARTs, as they would be subject to EBA's direct supervision]

Q&A



Questions for consultation

- Question 1. Is the approach to the application of the principle of proportionality adequate for the purposes of recovery planning?
- Question 2. Do you have any comments on the need to exchange information between the issuer and the relevant third party provider to avoid delays in the activation of the recovery plan in case the issuer has entered into an agreement pursuant to point (5)(h) of Article 34 of Regulation (EU) 2023/1114?
- Question 3. Do you have any comments on the categories of recovery plan indicators and on the recovery plan indicators listed in Annex I? Is the list of categories and recovery plan indicators clear? Is there any additional indicator or category of indicators that should be added?
- Question 4. Is the section on recovery options and recovery scenarios appropriate and sufficiently clear, also when read together with Annexes II and III?
- Question 5. Do you have any comments on the interaction between different recovery planning obligations? Are there any other operational efficiencies that can be achieved? Please describe them.



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