

EBA/CP/2023/26

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08 NOVEMBER 2023

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# Consultation Paper

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Draft Regulatory Technical Standards

to specify the minimum contents of the liquidity management policy and procedures under Article 45(7)(b) of Regulation (EU) 2023/1114

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# 1. Responding to this consultation

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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 08 February 2024. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

## Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA’s rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA’s Board of Appeal and the European Ombudsman.

## Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

## 2. Executive Summary

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Article 45(3) of MiCAR requires issuers of significant asset-referenced tokens to establish, maintain and implement a liquidity management policy and procedures. Based on that policy and procedures issuers have to assess and monitor their liquidity needs to meet any redemption of the asset-referenced tokens that can be requested at any time by their holders. The ultimate target of the liquidity management policy and procedures is to ensure that the reserve assets have a resilient liquidity profile that enables issuers of significant asset-referenced tokens to continue operating normally, including under scenarios of liquidity stress.

The requirement of that liquidity management policy and those procedures applies as well to electronic money (e-money) institutions issuing e-money tokens that are significant by virtue of Article 58(1) MiCAR and can be expanded to issuers of asset-referenced tokens that are not significant and to e-money institutions issuing e-money tokens that are not significant if the competent authority of the home Member State requires it so following Article 35(4) and Article 58(2) of MiCAR respectively.

Article 45(7)(b) of MiCAR requires that the reserve of assets for significant asset-referenced tokens consists of at least 60% of deposits referenced in each official currency.

With these draft Regulatory Technical Standards (RTS) the EBA is complying with its mandate in Article 45(7)(b) of MiCAR to specify, in close cooperation with ESMA, the cited minimum content of the liquidity management policy and procedures and related liquidity requirements.

### Next steps

The draft regulatory technical standards will be submitted to the 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.

## 3. Background and rationale

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1. Issuers of significant assets referenced tokens (ARTs) and e-money institutions issuing significant e-money tokens (EMTs) (as well as issuers of ARTs that are not significant and e-money institutions issuing EMTs that are not significant, both if required by the relevant competent authority)<sup>1</sup> are required to establish, maintain and implement a liquidity management policy and procedures. These policy and procedures shall ensure that the reserve assets have a resilient liquidity profile so that issuers can operate normally, including during liquidity stress.
2. Accordingly, and as per Article 45(7)(b) of (EU) Regulation 1114/2023 on markets in crypto-assets (MiCAR), the EBA, in close cooperation with ESMA, is mandated to develop draft regulatory technical standards (RTS) specifying the minimum contents of the above liquidity policy and procedures and related liquidity requirements.
3. Moreover, the EBA is also mandated under that provision to specify the minimum banking deposit amount in the reserve of assets for issuers of significant EMTs and ARTs that are referenced to official currencies. This part of the mandate is being addressed by the EBA in the draft RTS under 36(4)(d) of MiCAR, for consistency reasons, together with the specification of the minimum amount of deposits in credit institutions where it comes to EMTs and ARTs referenced to official currencies that are not significant.
4. For the development of these draft RTS, the EBA builds on the December 2022 Basel standards on the prudential treatment of crypto-assets exposures<sup>2</sup>, taking into account Article 86 of the CRD on liquidity risk and the EBA Guidelines on ILAAP<sup>3</sup>, adapted to the crypto-activities of tokens issuers.
5. The consultation of these draft RTS for the specification of the minimum contents of the liquidity management policy and procedures under Article 45(7)(b) MiCAR is being undertaken in parallel with two other consultations on liquidity related aspects of issuers of tokens, i.e. the draft RTS to specify highly liquid financial instruments under Article 38(5) MiCAR and the draft RTS to further specify liquidity requirements envisaged in Article 36(4) MiCAR.

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<sup>1</sup> As envisaged in paragraph 3 of Article 45 (on significant ARTs) in conjunction with paragraph 1 of Article 58 (on significant EMTs issued by e-money institutions), paragraph 4 of Article 35 (on non-significant ARTs) and paragraph 2 of Article 58 (on non-significant EMTs issued by e-money institutions).

<sup>2</sup> [Prudential treatment of cryptoasset exposures \(bis.org\)](https://www.bis.org/prudential/cyber/cyberassetexposures)

<sup>3</sup> [EBA/GL/2016/10](https://www.eba.europa.eu/en/press-material/press-releases/2016/09/161610)

### 3.1 Liquidity management related risks of issuers of ARTs and e-money institutions issuing EMTs

6. To ensure that the issuers of ARTs and e-money institutions issuing EMTs can cover their liabilities against holders of their issued tokens, issuers should constitute and maintain a reserve of assets matching the risks reflected within the said liabilities.
7. Issuers should ensure the prudent management of the reserve of assets by mainly ensuring that the value of the reserve is at least equal to the corresponding redemption value of tokens in circulation and that changes in the reserve are adequately managed to avoid adverse impacts on the market of the reserve assets. In this regard the composition and management of the reserve assets, particularly the degree to which they could be liquidated rapidly at or close to prevailing market prices, is of key importance. This is to avoid ending up in situations where large-scale redemptions result in “fire sales” of reserve assets that could reduce the “stable” value of the token or in situations where part of the reserve assets is trapped in other institutions.
8. The loss of value of the reserve of assets, or the mere expectation of it, could impair holders’ confidence in the resilience of the token as a payment mechanism, trigger significant redemption requests with subsequent negative impact on traditional financial institutions and financial markets in which such assets were traded. Also, significant changes in the composition of the reserve assets, even in the absence of large-scale redemption, might trigger spill over effects to the wider financial system. The ability to sell reserve assets in large volume at (or close to) prevailing market prices depends on the duration, quality, liquidity, market depth and concentration of the reserve assets. The degree of transparency as to the nature and liquidity of these reserve assets might also affect confidence in the token.
9. The holders of the tokens have a permanent right of redemption meaning that the issuer has the obligation to redeem the tokens at any time and upon request by holders. The issuer should fulfil this redemption request either by:
  - paying an amount in funds, other than electronic money, equivalent to the market value of the assets referenced by the tokens; or
  - delivering the assets referenced by the tokens (in specie).
10. For the reasons listed above, these liquidity management policy and procedures aim to ensure that the reserve of assets have a resilient liquidity profile to ultimately meet any request for redemption by holders of asset referenced tokens at any time, including during liquidity stress scenarios, without distorting the continuity of operations of the issuer.

## 3.2 Draft regulatory technical standards specifying the minimum contents and liquidity requirements of the liquidity management policy and procedures

11. Article 45(3) of MiCAR envisages that issuers of significant assets referenced tokens need to have in place a liquidity management policy and procedures aiming to ensure that the reserve of assets have a resilient liquidity profile to ultimately meet any request for redemption by holders or assets referenced tokens at any time, including during liquidity stress scenarios, without distorting the normal continuity of operations of the issuer.

12. For these reasons, the liquidity management policy and procedures need to include and keep updated at least the following items to ensure that issuers have the minimum resources in place to assess their liquidity needs in view of potential redemptions requests by token holders:

- The issuer's liquidity risk management framework, with the identification of the processes in place for identifying, measuring, managing and reporting liquidity risk. It should include the risk appetite limit, the drivers for liquidity risk selected by the issuer for monitoring its liquidity position, needs and availabilities, with particular attention to meet ultimately any potential redemption request by holders.
- The issuer's strategy to manage the reserve of assets in an effective and prudent manner and with the ultimate target to ensure that the risks associated to the reserve assets and the assets referenced by the ARTs are covered. This strategy includes the determination of the minimum size of the reserve of assets, that depends on the number of tokens and the overcollateralisation, the criteria to determine their market value, concentration limits, gap analysis for relevant time horizons and approaches to ensure currencies matching and details on the branches and legal entities in the scope of the issuer, among other aspects. This strategy should be consistent with the risk appetite of the issuer as set by the management body. The strategy should consider the necessary correlation between the assets referenced and the ARTs' reserve of assets.
- The issuer's liquidity contingency plan including a description of the strategies for addressing liquidity shortfalls in emergency situations and of the lines of responsibilities for its monitoring and execution, a description of the tools in place to monitor market conditions to determine in a timely manner whether execution of measures is warranted. It should include liquidity risk mitigation tools, internal limits for early reaction to be able to withstand a range of different stress events, idiosyncratic, market-wide, and combined ones, and identified funding alternatives.

- Description of the custody policy of the reserve assets that aims to ensure prompt access to them as required by MiCAR. Indeed, concentration by custodian needs to be avoided following MiCAR. Therefore, issuers should have in place adequate policies that ensure a prudent diversification of custodians.
- Description of the liquidity stress testing framework following Article 45(4) MiCAR, in particular the risks identified for this exercise and parameters considered to cover them with detailed information of their calibration. The liquidity management policy should reflect the outcome of the liquidity stress testing with a description of potential measures taken to strengthen the liquidity arrangements. The liquidity stress testing shall be made on a monthly basis at least as established in the draft RTS under Article 35(6) MiCAR under consultation to further specify, among others, the minimum requirements for the design of stress testing programmes including the frequency of the different stress testing exercises.

13. The liquidity management policy and procedures of the issuer need to be separate for each ARTs consistently with the required legal and operational segregation of their corresponding reserve of assets. Different assets referenced and correlation with the relevant token's reserve of assets might need differentiated risk limits, management tools and strategies.

14. The liquidity management policy and procedures of the issuer related to its crypto-assets activities should be separate and specific (from a formal and content related perspective) from the liquidity policy of its other activities. For example, if the issuer is a credit institution, the liquidity management policy and procedures related to its activities as issuer of ART and EMT should be separate from the one on its banking activities. This is consistent with the required legal and operational segregation of the reserve of assets from the issuer's estate. Other relevant aspects are segregation of duties, independence of risk control or independent internal reporting. However, this should not be interpreted as a recommendation not to conduct in a holistic manner the management of an entity.

15. The EBA would like to highlight that the provisions envisaged in these RTS should be read together with the provisions related to liquidity as envisaged in the upcoming EBA guidelines on liquidity stress testing envisaged in Article 45(4), applicable to issuers of tokens that are significant and to those that are not significant if required by the competent authorities, the EBA guidelines on the minimum content of the governance arrangements, for issuers or ARTs, under Article 34(13), in particular as regards internal control mechanisms established in paragraph 10 and the EBA guidelines on recovery plans under Article 46(6) for issuers of ARTs.



## 4. Draft regulatory technical standards

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## 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 for specifying the minimum contents of the liquidity management policy and procedures**

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 of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937<sup>4</sup>, and in particular Article 45(7), fourth subparagraph, thereof,

Whereas:

- (1) The minimum contents and procedures for identifying, measuring and managing liquidity risk of issuers of crypto-assets should be set out with the ultimate target to ensure that the value of their reserves of assets can meet any redemption request by token holders under normal or stress scenarios ensuring the normal continuity of the business. Issuers of crypto-assets should pay particular attention to the volatility of assets referenced relative to the reserve of assets and perform a subsequent analysis of the necessary overcollateralisation. Issuers of crypto-assets should avoid any concentration by custodian to mitigate any counterparty risk.
- (2) Issuers of crypto-assets should establish a contingency plan with early warning signals and mitigation tools. In particular, issuers of crypto-assets should monitor as an early warning signal the volatility of assets referenced relative to the reserve of assets and the evolution of any gap between the market value of the tokens and the market value of the assets referenced. This indicator is considered specially relevant for spotting potential massive redemptions requests, particularly in view of any potential underestimation of the market value of tokens in the market. Given that an overestimation of the market value of a token in the market might likely create the incentive to sell it, issuers should pay attention to transaction volumes and prices in order to be ready to react to any adverse evolution.
- (3) As a reserve of assets for one token is segregated from a reserve of assets from other tokens, the liquidity management policies related to each of them should be segregated as well.
- (4) A detailed description of the risks covered, the parameters identified and their calibration for the purposes of the liquidity stress testing established in Article 45(4)

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<sup>4</sup> OJ L 150, 9.6.2023, p. 40.

of Regulation (EU) 2023/1114, as well as the outcome of the exercise, should be envisaged in the liquidity management policy. The review of this information, that should be updated for each liquidity stress testing exercise, is expected to allow supervisors to decide on appropriate measures to strengthen the issuers' liquidity requirements if necessary.

- (5) The minimum amount of bank deposits in the reserve assets for significant asset-referenced tokens and e-money tokens should be provided, at the level provided by Regulation (EU) 2023/1114, that is 60% of the amount referenced in each official currency. Such a requirement is expected to keep a significant amount of the reserve of assets as capable to be liquidated in the market with multiple counterparties, and to ensure that the potential risk of reciprocal contagion effects due to the interconnectedness with the banking system is mitigated.
- (6) Considering that requirements set out in Article 45, points (1) to (4) of Regulation (EU) 2023/1114 also apply to issuers of e-money tokens issued by electronic money institutions (either significant or, where decided, non-significant), as per Article 58(1), point (a), and (2) of that Regulation, this Regulation should also apply to issuers of e-money tokens issued by electronic money institutions that are subject to or required to comply with those requirements.
- (7) This Regulation is relevant for issuers of e-money tokens that are subject to or required to comply with requirements referred to in Articles 45 of Regulation (EU) 2023/1114.
- (8) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (9) The European Banking Authority, in close cooperation with the European Supervisory Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>5</sup>, 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 Council,<sup>6</sup>

HAS ADOPTED THIS REGULATION:

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<sup>5</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

<sup>6</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

## *Article 1*

### *Procedures for identifying, measuring and managing liquidity risk*

1. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall have robust strategies, policies, processes and systems for the identification, measurement, management, monitoring and internal reporting of liquidity risk over an appropriate set of time horizons, so as to ensure that they maintain adequate levels of their reserve of assets. Those strategies, policies, processes and systems shall ensure the issuer's normal continuity of operations by meeting any redemption request by holders of asset-referenced tokens and e-money tokens.
2. The strategies, policies, processes and systems referred to in paragraph 1 shall be proportionate to the complexity, risk profile, scope of operation of the issuers of asset-referenced tokens and/or, where applicable, e-money institutions issuing e-money tokens, and be approved by the issuers' management body, which shall set risk tolerance levels to each asset-referenced token or e-money token. The strategies, policies, processes and systems referred to in paragraph 1 shall reflect the issuers' current and expected liquidity risks which shall be monitored on an ongoing basis. This shall include the identification of deposits with credit institutions or of any other asset received in the issuance of the tokens and kept in the reserve of assets, and of the highly liquid financial instruments in which the reserve of assets can be invested in, the criteria to determine their market value, the assessment of concentration risk, creditworthiness and liquidity soundness, as well as their limits, time horizons, currencies' consistency and the techniques for ensuring the stability of the reserve of assets' value with respect to the referenced asset(s).
3. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall establish appropriate arrangements for a sound management of the intra-day liquidity risk. This includes the identification of the expected intra-day liquidity needs and resources and setting up process and procedures coherent with the profile of the issuer, the token and the contingent and expected market situation.
4. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall monitor their reserve assets to ensure that they are available to cover the value of assets referenced by the tokens at all times, in particular during emergency situations, and assess the appropriateness of overcollateralisation, especially where the assets referenced by the tokens are highly volatile or do not form part of the reserve of assets. The custody service provider, custody policies and related contractual arrangements shall be monitored at any time.
5. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall have in place specific measures and limits to avoid concentration of the reserve of assets by custodian.

6. Issuers of asset-referenced tokens not referencing official currencies shall establish adequate processes and procedures to address risks arising from cases in which the reserve of assets are not composed by the assets referenced. In particular, the issuers shall have sound and comprehensive arrangements for managing risks arising from the use of derivative instruments and/or instruments providing a synthetic replica of the referenced assets.

## *Article 2*

### *Contingency policy and mitigation tools*

1. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall develop and calibrate early warning signals, including maximum deviations between the market value of the reserve of assets and the market value of the assets referenced by the tokens and also between the market value of the tokens and the market value of the assets referenced by the tokens.
2. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall have in place and regularly review different liquidity risk mitigation tools, including adequate access to diversified funding sources, to react to any early warning signal, embracing normal and stress scenarios.
3. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall adjust their strategies, early warning signals, internal policies and limits on liquidity risk and develop effective contingency plans, taking into account the outcome of the stress testing.
4. On the set-up of the liquidity contingency planning, issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall maintain the following policy documentation:
  - (a) description of the lines of responsibilities for designing, approving, monitoring and executing the liquidity contingency plan as well as to maintain it up to date;
  - (b) description of the strategies for addressing liquidity shortfalls in emergency situations;
  - (c) description of a tool, with internal limits, to monitor market conditions that allow issuers to determine, in a timely manner, whether escalation or execution of measures or both are warranted.

### *Article 3*

#### *Segregation of the liquidity management policy and procedures*

1. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(3) of Regulation (EU) 2023/1114 shall have separate and adapted information, in content and form, on the procedures for identifying, measuring, managing and reporting liquidity risk, contingency policies and mitigation tools, as envisaged in Article 1, 2 and 3 of this Regulation, by each asset-referenced token and e-money token they issue. Those separate policies shall detail differentiated risk limits, management tools and strategies, taking into account the different asset referenced and their correlation with the relevant segregated reserve of assets.
2. The liquidity management policy and procedures envisaged in this Regulation shall be separate, in content and form, from the liquidity policy related to other activities of the issuer other than those related to its issuing of crypto-assets.

### *Article 4*

#### *Liquidity stress testing*

1. Issuers of asset-referenced tokens and/or e-money institutions issuing e-money tokens that have to apply Article 45(4) of Regulation (EU) 2023/1114 shall include in the liquidity management policy the process and procedures of the liquidity stress testing and an updated description of the following aspects:
  - (a) the risks covered in the liquidity stress testing;
  - (b) the parameters considered and their calibration under stress, as well as the stress scenarios and time horizons used in the liquidity stress testing;
  - (c) the historical data and assumptions, including any expert judgments, considered by the issuer in the calibration of the parameters mentioned in point (b);
  - (d) the outcome of the liquidity stress testing and remedies taken.
2. The stress testing exercise shall include a reverse stress test element to assess the limit of resilience of the liquidity profile of each reserve of assets.

*Article 5*

*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]*

## 5. Accompanying documents

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### 5.1 Draft cost-benefit analysis / impact assessment

1. Following Article 10 of Regulation (EU) No 1093/2010 (EBA Regulation), the EBA shall analyse the potential costs and benefits of draft Regulatory technical standards (RTS). RTS developed by the EBA shall therefore be accompanied by an Impact Assessment (IA) that analyses ‘the potential related costs and benefits’.
2. This analysis presents the IA of the main policy options included in this Consultation Paper on the draft RTS on the specification of the minimum content of the liquidity management policy and procedures, as well as regarding the potential specification of a higher minimum amount of deposits with credit institutions to be held by issuers of significant ARTs, which the EBA is mandated to develop under Article 45(7)(b) of Regulation (EU) 1114/2023 (MiCAR) on markets in crypto-assets.

#### 5.1.1 Specification of the minimum content of the liquidity management policy and procedures

3. Article 45(3) MiCAR refers to the liquidity management policy and procedures that issuers of significant ARTs need to have in place to ensure that the reserve assets have a resilient liquidity profile that enables issuers of significant ARTs to continue operating normally, including under scenarios of liquidity -stress.
4. The draft RTS generally envisages a minimum content that seeks to contribute to the identification, measurement, mitigation and evaluation of the liquidity risk in the issuers of ARTs. These minimum strategies that have to be in place contribute to an adequate assessment and monitoring of the liquidity risk and are particularly targeting to ensure that the composition of the reserve of assets of issuers of ARTs are sufficient to cover any redemption request of holders of token in circulation (tokens issued).
5. The EBA initially got inspiration from the content of the liquidity management policies in banks by observing the related expectations under the CRD and the EBA GL on ILAAP. The EBA finally adapted these expectations to the crypto activities of issuers of tokens with the main aim to ensure an appropriate composition of the reserve of assets, across the wide set of eligible highly liquid financial instruments, and sufficient volume of it, with potential overcollateralisation (voluntary or mandatory), to ultimately contribute to a more resilient reserve of assets to meet any redemption request by token holders at any time, including in times of stress.



6. The EBA also takes into account other specific mandates related to the details of the general internal control framework and the liquidity stress testing exercise, via specific guidelines, that are also related to liquidity risk. These draft RTS seek to avoid any overlapping with these topics for which the legislator envisages specific separate mandates and regulatory products.
7. The inclusion of the basis risk test has been assessed under different alternatives.

a. **Basis risk test**

8. The basis risk test was proposed by the BCBS in previous consultative versions ([link](#)) to the final standards on the prudential treatment of cryptoasset exposures published in December 2022 ([link](#)).
9. The following description show the main features of the basis risk test as assessed in those consultative versions:

**BCBS Second Consultation on the prudential treatment of cryptoasset exposures**

*Basis risk test.* The objective of the basis risk test is to ensure that the holder of a cryptoasset can sell it in the market for an amount that closely tracks the peg value. This element envisages two thresholds, 10bps and 20 bps, to reduce cliff effects. Specifically:

- (1) If the peg-to-market value difference does not exceed 10bp more than 3 times over the prior 12 months, the cryptoasset has “fully passed” the basis risk test.
- (2) If the peg-to-market value difference exceeds 20bp more than 10 times over the prior 12 months, the cryptoasset has “failed” the basis risk test.
- (3) If the cryptoasset has neither “fully passed” nor “failed” the basis risk test, it is considered to have “narrowly passed” the basis risk test. Cryptoassets that meet all the classification conditions for inclusion in Group 1b, but only narrowly pass the basis risk test, will be subject to an add-on to risk weighted assets.

10. As stated in the final standards “The basis risk test, which is a quantitative test based on the market value of the cryptoasset, aims to ensure that the holder of a cryptoasset can sell it in the market for an amount that closely tracks the peg value.” The Committee decided not to implement the basis risk test in the final standards. The Committee agreed to further study whether there are statistical tests that can reliably identify low-risk stablecoins, and if such a test is identified, will consider it as an additional requirement for inclusion in Group 1b.

11. The EBA considered the possibility to introduce some safeguards with respect to the concerns addressed by the basis risk test without introducing the requirement itself taking into account that MICAR does not envisage the basis risk test as a minimum requirement to be passed. Two policy options were assessed in this regard:

- Policy option 1: to envisage as a minimum specific early warning signal in the contingency policy an indicator measuring the difference between the market value of the token and the market value of the assets referenced. The calibration of the internal limit for such deviation is done by the issuer.
- Policy option 2: to not include any minimum specific early warning signal as such.

	<b>Advantages</b>	<b>Disadvantages</b>
<b>Policy option 1</b>	<p>The consequence of large deviations between the market value of the token and the asset referenced is that token holders might feel motivated to request massive redemption of tokens, in case of a negative deviation where the token is underestimated in the market, or massive sales of tokens if the deviation is positive where the token is overestimated in the market.</p> <p>Under both situations an undesired impact on the stability of the issuer and of the markets could arise.</p> <p>With this indicator issuers might anticipate and thus undertake actions to avoid negative consequences.</p>	<p>Lack of identification in the RTS with regards to which actions might be taken in case that the deviations might exceed the internal limits calibrated by issuers to avoid the risk of massive redemption requests or sales.</p> <p>However, it might be argued that it is up to the issuer to determine the actions to be taken in that case. The market value of the token might be defined by idiosyncratic and market related factors. The issuer could take measures to control idiosyncratic drivers, for example by voluntary overcollateralisation of the reserve of assets...</p>
	<p>The deviation measured by this indicator depends on the definition of the assets referenced and, thus, on the risk appetite of the issuer. This is consistent with the option envisaging its calibration and subsequent potential actions to be taken by the issuer.</p>	<p>It might be argued that the RTS requires the inclusion of an early warning signal which calibration is very difficult for some issuers. This complexity might challenge the proper identification of situations of risk for actions to be taken.</p>
<b>Policy option 2</b>	<p>MiCAR requires the market value of the reserve assets to amount to at</p>	<p>The trigger of the volatility to cover here is not related to market value</p>

	<p>least the value of the assets referenced. Arguably the market value of the tokens is at least indirectly related to the market value and composition of the reserve assets. Therefore, the stabilisation mechanism would be covering the main target of the basis risk test already. MiCAR also envisages a supervisory and regulatory framework for cryptoassets markets.</p>	<p>changes of the reserve assets only. The targeted volatility here is driven by idiosyncratic related factors linked to the issuer and its risk appetite and also by market wide related factors triggered by the general performance of crypto assets in markets.</p>
	<p>The basis risk test seems to serve more for the purposes to assess a maximum volatility allowed for crypto assets (ARTs and EMTs in MiCAR) from the perspective of the investor, e.g. as a requirement for their eligibility as liquid assets in the LCR if finally decided so, rather than for the purposes of the determination of the composition of the reserve assets.</p>	<p>It could be argued that the fundamentals of the test seem valid to limit the volatility of the token as an asset for investors but also to limit the volatility of the token to cover the issuer against the impact of a potential subsequent massive redemption request or sales with impact on the stability of markets.</p>

12. The EBA opted for option 1 where issuers of ARTs will need to incorporate an indicator as an early warning signal to measure differences between the market value of the token and the market value of the assets referenced. The calibration of the maximum deviation will correspond to the issuer as well as the actions, if any, to be taken. With this the EBA intends to cover at least the basis risk test from a qualitative point of view, the calibration being done by the issuer, to avoid the creation of additional requirements to the MiCAR ones.

## 5.2 Overview of questions for consultation

- Question 1.** Do respondents have any concerns of Article 1 for the identification, measurement and monitoring of liquidity risk of issuers? Do respondents think that the main aspects in the processes for issuers of tokens to properly manage liquidity risk are captured?
- Question 2.** Do respondents have any comment on the minimum content of the liquidity contingency policy proposed in Article 2? In particular, do respondents have any concern on the inclusion of the required indicator to measure deviations between the market value of the token and the market value of the assets referenced as an early warning signal to be calibrated by the issuer?
- Question 3.** Do respondents find any challenge in the application of the segregation of the liquidity management policy as envisaged in Article 3?
- Question 4.** Do respondents have any comment regarding the minimum content envisaged in Article 4 of these RTS about the liquidity stress testing under Article 45(4) of MiCAR to be included in the liquidity management policy?
- Question 5.** Do respondents find any provision unclear to apply?
- Question 6.** Do respondents have any comment on the impact assessment provided?