



ESMA's public consultation on the first package of draft technical standards for the development of Regulation 2023/1114 on crypto-assets markets (MiCA)

[Link to the paper:](#)

[Consultation paper on Technical Standards specifying certain requirements of the Markets in Crypto-Assets Regulation \(MiCA\)](#)

1.- Target audience (potential stakeholders):

This consultation is addressed to all market participants and mainly to:

- Issuers of crypto-assets;
- Crypto-asset services providers;
- Financial entities related to crypto-assets; and
- Market participants with special interest towards crypto-assets.

The CNMV would appreciate if all the aforementioned potential stakeholders could send a copy of their responses to the consultation to the following e-mail address:

documentosinternacional@cnmv.es

2.- Information Note

In order to comply with the provisions in the MiCA Regulation and its deadlines, ESMA intends to publish the draft technical standards and guidelines for the development of Regulation 2023/1114 on crypto-asset markets (MiCA Regulation) in three packages to be published in the following deadlines: the first in July 2023, the second in October 2023 and the third in the first quarter of 2024.

Thus, the document published by ESMA of 12 July 2023 is the consultation for the first package of draft technical standards specifying some of the requirements of the MiCA Regulation. The aim of the public consultation is to collect views, comments and opinions from stakeholders on the appropriate development of the MiCA Regulation. This consultation document does not include a draft cost-benefit analysis, nonetheless, ESMA has taken into account the principle of proportionality and the possible costs that the obligations mentioned in the technical standards would generate, reaching to the conclusion that no new costs are incurred beyond those arising from the obligations set out in level 1. However, ESMA asks those participating in the questionnaire to mention any concerns that ESMA's proposals may raise in terms of costs.

The consultation document covers 5 draft regulatory technical standards (RTS) and 2 implementing technical standards (ITS):

1) Provision of crypto-asset services by certain financial entities

Draft of the regulatory technical standards to specify the information included in Article 60(7) to be submitted by certain financial entities who want to provide crypto-asset services, as stipulated by Article 60(13) of the MiCA Regulation.

Draft of the implementing technical standards to establish standard forms, templates and procedures for the information to be notified as described in Article 60(7), in accordance with the provision for ESMA in Article 60(14) of the MiCA Regulation.

2) Information to be included in the application for authorisation as a provider of crypto-asset services

Draft of the regulatory technical standards to specify the information included in Article 62(2) to be attached to the application for authorisation and the evidence to be provided, as provided in Article 62(3) on the suitability and good repute of holders of qualifying holdings and members of the Board of Directors, in accordance with the provision of Article 62(5) of the MiCA Regulation.

Draft of the implementing technical standards to establish standard forms, templates and procedures for the information to be included in the application for authorisation as a crypto-asset service provider as provided by Article 62(6) of the MiCA Regulation.

3) Complaint handling procedure

Draft of the regulatory technical standards, to be developed in close collaboration with the EBA (European Banking Authority), to further specify the requirements, templates and procedures for the handling of complaints, in accordance with the provision for ESMA established in Article 71(5) of the MiCA Regulation.

4) Identification, prevention, management and disclosure of conflicts of interest

Draft of the regulatory technical standards, to be developed in close collaboration with EBA, to specify: a) the rules regarding policies and procedures to identify, prevent, manage and disclose conflicts of interest, taking into account the size, nature and range of crypto-asset services provided; and b) the details and methodology of the content of the disclosure of the general nature, source of conflicts and measures taken to mitigate the latter, as provided by Article 72(5) of the MiCA Regulation.

5) Assessment of proposed acquisition of crypto-asset service providers

Draft of the regulatory technical standards, to be developed in close cooperation with EBA, to specify the detailed content of the information necessary to carry out the assessment of the acquisition of a qualifying holding in a crypto-asset services provider mentioned in Article 83(4), such information being relevant to a prudential assessment, proportionate and adjusted to the nature of the proposed acquirer and the proposed acquisition, in compliance with the provision for ESMA established in Article 84(4) of the MiCA Regulation.

The document includes two annexes: Annex I with the list of questions that can be found in the consultation and Annex II stating the regulatory and implementing technical standards mentioned in the consultation. Questions 12 to 16 refer to the future business plans of the market participants taking part in the questionnaire and that are confidential: if they apply for authorisation, in which jurisdictions, to carry out which activities and details of these activities (turnover/expected profits, etc.).

Next steps. ESMA shall consider the comments received to this consultation and publish the report with the draft technical standards for its endorsement by the European Commission by 30 June 2024.

3.- Submission of comments

The deadline for submitting comments is **20 September 2023**.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. On the page [Consultations](#) (set the cursor on the word to access the link with the online response form).

Taking into account the confidential nature of the information to be provided in the responses to questions 12 to 16 and although ESMA does not intend to publish them, respondents are requested to expressly state when answering the questionnaire that they do not wish your response to be published on the ESMA website.

Additionally, as stated herein, the CNMV would also appreciate if stakeholders could send a copy of their responses to the consultation to the following address:
documentosinternacional@cnmv.es

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