

Consultation on the Technical Standards specifying certain requirements of MiCA (3rd package)

[Consultation on the Technical Standards specifying certain requirements of MiCA](#)

1. – Target participants

All interested stakeholders are invited to respond to this consultation paper. In particular, ESMA invites investors and their associations, crypto-asset issuers, crypto-asset service providers, offerors and persons seeking admission to trading of crypto-assets, financial entities dealing with crypto-assets and any other stakeholders that have an interest in the market for crypto-assets.

2. - Information Note

ESMA published a first consultation package in July 2023, a second in December 2023 and two additional standalone consultation papers in January 2024. This latest consultation package (no. 3) includes all remaining mandates with an 18-month deadline. The aim of these public consultations is to collect views, comments, and opinions from stakeholders, investors and market participants on the appropriate implementation of MiCA.

This paper contains 4 sections (chapters 3 – 6) relating to the four mandates under consultation: (1) prevention and detection of crypto-asset market abuse; (2) suitability requirements applicable to the provision of advice and portfolio management services in crypto-assets and the format of the periodic statement to be provided for portfolio management services; (3) transfer services for crypto-assets; and (4) maintenance of systems and security access protocols. An aggregated list of consultation questions can be found in Annex I. Annex II includes the draft RTS and guidelines.

1) Prevention and detection of crypto-asset market abuse.

MiCA mandates ESMA to develop draft regulatory standards to further specify (a) appropriate arrangements, systems and procedures for persons to comply with their obligations to prevent and detect market abuse and report to national competent authorities suspected cases; (b) the template to be used by persons to report suspicious transactions or orders; (c) for cross-border market abuse situations, coordination procedures between the relevant competent authorities for the detection and sanctioning of market abuse.

The paper includes information on the background, the assessment, the draft proposal as well as the questions addressed to stakeholders on the proposal.

2) Suitability requirements applicable to the provision of advice and portfolio management services in crypto-assets and the format of the periodic statement to be provided for portfolio management services.

ESMA is mandated to issue guidelines specifying: (a) the criteria for the assessment of client's knowledge and competence; (b) the information that crypto-asset service providers shall obtain from their clients or prospective clients regarding their knowledge of, and experience in, investing (including in crypto-assets), their investment objectives (including risk tolerance), their financial situation (including their ability to bear losses), and their basic understanding of the risks involved in purchasing crypto-assets; and (c) the format of the periodic statement that crypto-asset service providers providing the service of portfolio management of crypto-assets shall provide to their clients on the portfolio management activities carried out on their behalf.

Please, note that ESMA proposes to complement the guidelines that will be issued on the basis of the mandate by own-initiative guidelines also dealing with topics such as the importance of the information provided to clients about the suitability assessment or the necessary arrangements to ensure the suitability of an assessment. In addition, ESMA chose to take the ESMA Guidelines on certain aspects of the MiFID II suitability requirements as a basis for the draft guidelines. All this is explained in the paper.

The paper includes information on the background, the assessment, the draft proposal as well as the questions addressed to stakeholders on the proposal.

3) Transfer services for crypto-assets.

ESMA is mandated to, in close cooperation with EBA, issue guidelines for crypto-asset service providers providing transfer services for crypto-assets on behalf of clients as regards procedures and policies, including the rights of clients, in the context of transfer services for crypto-assets.

The paper includes information on the background, the assessment, the draft proposal as well as the questions addressed to stakeholders on the proposal.

4) Maintenance of systems and security access protocols.

According to Article 14 (1)(d) of MiCA, offerors and persons seeking admission to trading of crypto-assets other than asset referenced tokens or e-money tokens shall maintain all their systems and security access protocols in conformity with the appropriate Union standards. ESMA is mandated to, in cooperation with EBA, issue guidelines to specify those Union standards.

The paper includes information on the background, the assessment, the draft proposal as well as the questions addressed to stakeholders on the proposal.

ESMA will consider the feedback received during this consultation and expect to publish a final report and submit the draft technical standards to the European Commission for endorsement by December 2024.

3. - Submission of comments

The deadline for submitting comments is **25 June 2024**.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. Both the consultation papers and the response forms are available on [ESMA's website](#) (place the cursor on the word to obtain the link).

Likewise, please send a copy of your answers to the CNMV to the following email address: documentosinternacional@cnmv.es

**Dirección de Asuntos Internacionales
CNMV
c/ Edison 4
28006 Madrid**