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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Annexes to the Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (MiCA) - Confirmation of the final compromise text with a view to agreement

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## ANNEX I

### **Disclosure items for the white paper of crypto-assets, other than asset-referenced tokens or e-money tokens**

#### **Part A: Information about the offeror or person seeking admission to trading**

1. Name;
  - 1a. Legal form;
2. Registered address and head office, where different;
3. Date of the registration;
4. Legal entity identifier, if available, or national legal entity code;
  - 4a. A contact telephone number and an email address of the offeror or the person seeking admission to trading, and the period of days within which an investor contacting the offeror or the person seeking admission to trading via that telephone number or email address will receive an answer;
5. Where applicable, the name of the parent company;
6. Identity, business addresses and functions of persons belonging to the management body of the offeror or person seeking admission to trading;
  - 6a. Business or professional activity of the offeror or person seeking admission to trading and, where applicable, its parent company;
7. [deleted]
8. [deleted]

9. The financial condition of the offeror or person seeking admission to trading over the past 3 years or where the offeror or person seeking admission to trading has not been established for the past 3 years, its financial condition since the date of its registration.

The financial condition means a fair review of the development and performance of the business of the offeror or person seeking admission to trading and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the offeror or person seeking admission to trading business and of its position, consistent with the size and complexity of the business.

**Part aa: Information about the issuer, if different from the offeror or person seeking admission to trading**

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier, if available, or national legal entity code;
6. Where applicable, the name of the parent company;
7. Identity, business addresses and functions of persons belonging to the management body of the issuer;
8. Business or professional activity of the issuer, and, where applicable, its parent company.

**Part ab: Information about the operator of the trading platform when it prepares the white paper**

1. Name;
2. Legal form;
3. Registered address and head office, where different;
4. Date of the registration;
5. Legal entity identifier, if available, or national legal entity code;
6. Where applicable, the name of the parent company;
7. The reason why that operator prepared the white paper;
8. Identity, business addresses and functions of persons belonging to the management body of the operator;
9. Business or professional activity of the operator, and, where applicable, its parent company.

**Part B: Information about the crypto-asset project**

1. Name of the project and of the crypto-assets, if different than the name of the offeror or person seeking admission to trading, and abbreviation or ticker handler;
  - 1a. A brief description of the project;
2. Details of all natural or legal persons (including business addresses and/or domicile of the company) involved in project implementation, such as advisors, development team and crypto-asset service providers;
3. [deleted]
4. Where the project concerns utility tokens, key features of the goods or services developed or to be developed;

5. Information about the project, especially past and future milestones of the project and, where applicable, resources already allocated to the project;
6. where applicable, planned use of any funds or other crypto-assets collected;
7. [deleted]

**Part C: Information about the offer to the public of crypto-assets or their admission to trading on a trading platform for crypto-assets**

1. Indication on whether the whitepaper concerns an offer of crypto-assets to the public or an admission of crypto-assets to trading on a trading platform for crypto-assets;
  - 1a. The reasons for the offer or for seeking admission to trading;
2. Where applicable, the amount that the offer intends to raise in funds or in any other crypto-asset. Where applicable, any minimum and maximum target subscription goals set for the offer to the public of crypto-assets, and whether oversubscriptions are accepted and how they are allocated;
3. The issue price of the crypto-asset being offered (in an official currency or any other crypto-assets), any applicable subscription fee or the method in accordance with which the offer price will be determined;
4. Where applicable, the total number of crypto-assets to be offered or admitted to trading on a trading platform for crypto-assets;
5. Indication of the potential holders that the offer to the public of crypto-assets or admission of such crypto-assets to trading targets, including any restriction as regards the type of holders for such crypto-assets;

6. Specific notice that purchasers participating in the offer to the public of crypto-assets will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, if they exercise the right to withdrawal foreseen in Article 12 or if the offer is cancelled and detailed description of the refund mechanism, including the expected timeline of when such refunds will be completed;
7. Information about the various phases of the offer of crypto-assets, including information on discounted purchase price for early purchasers of crypto-assets (pre-public sales); in the case of discounted purchase prices for some purchasers, an explanation why purchase prices may be different, and a description of the impact on the other investors;
8. For time-limited offers, the subscription period during which the offer to the public is open
  - 8a. The arrangements to safeguard funds or other crypto-assets as referred to in Article 9 during the time-limited offer or during the withdrawal period;
9. Methods of payment to buy the crypto-assets offered and methods of transfer of the value to the purchasers when they are entitled to be reimbursed;
10. In the case of offers, information on the right of withdrawal as referred to in Article 12;
11. Information on the manner and time schedule of transferring the purchased crypto-assets to the holders;
  - 11a. Information about technical requirements the purchaser has to fulfil to hold the crypto-assets;
12. Where applicable, name of the crypto-asset service provider in charge of the placement of crypto-assets and the form of such placement (with or without a firm commitment basis);
13. Where applicable, name of the trading platform for crypto-assets where admission to trading is sought, and information about the way investors can access such trading platforms and what costs are involved;

14. The law applicable to the offer to the public of crypto-assets, as well as the competent courts;
15. Expenses related to the offer to the public of crypto-assets;
16. [deleted]
17. Potential conflicts of interest, of the persons involved in the offer or admission to trading, pertaining to the offer or admission to trading.

#### **Part Ca: Information about the crypto-assets**

1. The type of crypto-asset that will be offered to the public or for which admission to trading is sought;
2. A description of the characteristics and functionality of the crypto-assets being offered or admitted to trading on a trading platform for crypto-assets, including information about when the functionalities are planned to apply;

#### **Part D: Rights and obligations attached to crypto-assets**

1. [deleted]
2. [deleted]
3. A description of the rights and obligations (if any) that the purchaser is entitled to, and the procedure and conditions for the exercise of these rights;
- 3a. A description of the conditions under which the rights and obligations may be modified;
4. Where applicable, information on the future offers of crypto-assets by the issuer and the number of crypto-assets retained by the issuer itself;
5. Where the offer of crypto-assets or admission to trading on a trading platform for crypto-assets concerns utility tokens, information about the quality and quantity of goods or services that the utility tokens give access to;

6. Where the offers to the public of crypto-assets or admission to trading on a trading platform for crypto-assets concerns utility tokens, information on how utility tokens can be redeemed for goods or services they relate to;
7. Where an admission to trading on a trading platform for crypto-assets is not sought, information on how and where the crypto-assets can be acquired or sold after the offer to the public;
8. Restrictions on the transferability of the crypto-assets being offered or admitted to trading on a trading platform for crypto-assets;
9. Where the crypto-assets has protocols for the increase or decrease of their supply in response to changes in demand, a description of the functioning of such protocols;
10. The law applicable to the crypto-assets, as well as the competent courts;
11. Where applicable, a description of protection schemes protecting the value of the crypto-asset and compensation schemes.

#### **Part E: Information on the underlying technology**

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used;
2. [deleted]
3. The consensus mechanism, where applicable;
4. Incentive mechanisms to secure transactions and any fees applicable;
5. Where the crypto-assets are issued, transferred and stored on a distributed ledger that is operated by the issuer, the offeror or a third-party acting on their behalf, a detailed description of the functioning of such distributed ledger;
6. Information on the audit outcome of the technology used (if any).



## Part F: Risks

1. [deleted]
2. A description of risks associated with the offer of crypto-assets and/or admission to trading on a trading platform for crypto-assets;
- 2a A description of risks associated with the issuer of crypto-assets, if different from the offeror, or person seeking admission to trading;
3. A description of risks associated with the crypto-assets;
4. A description of risks associated with project implementation;
5. A description of risks associated with the technology used as well as mitigating measures (if any).

## **Annex II**

### **Disclosure items for white paper for asset-referenced tokens**

#### **Part A: Information about the issuer**

- 0a. Name;
- 0b. Legal form;
- 0c. Registered address and head office where different;
- 0d. Date of the registration;
- 0e. Legal entity identifier, if available, or national legal entity code;
- 0f. Where applicable, the identity of the parent company;
- 0g. Identity, business addresses and functions of persons belonging to the management body of the issuer;
- 0h. Business or professional activity of the issuer and, where applicable, its parent company;
- 0j. The financial condition of the issuer over the past 3 years or where the issuer has not been established for the past 3 years, its financial condition since the date of its registration.

The financial condition means a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the issuer's business and of its position, consistent with the size and complexity of the business;

- 1. A detailed description of the issuer's governance arrangements;

2. Except for issuers of asset-referenced tokens that are exempted from authorisation in accordance with Article 15a, details about the authorisation as an issuer of asset-referenced tokens and name of the competent authority which granted such an authorisation.

For credit institutions the name of the competent authority of the home Member State.

- 2a. In case the issuer of the crypto-asset also issued other crypto-assets or has also activities related to crypto-assets, this should clearly be stated. The issuer should also state whether there is any connection between the issuer and the entity running the DLT network used to issue the crypto asset. This also applies if these protocols are run by or controlled by a person/ legal entity closely connected to project participants;

### **Part B: Information about the asset-referenced tokens**

- 0a. Name and abbreviation or ticker handler of the asset-referenced tokens;
- 0b. A brief description of the asset-referenced tokens, including a reference to the type of crypto asset;
- 0c. Details of all natural or legal persons (including business addresses and/or domicile of the company) involved in the implementation of the asset-referenced tokens, such as advisors, development team and crypto-asset service providers;
1. A description of the role, responsibilities and accountability of any third-party entities referred to in Article 30(5), point (h).
2. Information about the plans for the asset-referenced tokens, including the description of the past and future milestones and, where applicable, resources already allocated.

**Part C: Information about the offer to the public of asset-referenced tokens or their admission to trading on a trading platform for crypto-assets**

1. Indication on whether the white paper concerns an offer of asset-referenced tokens to the public or an admission of asset-referenced tokens to trading on a trading platform for crypto-assets;
2. Where applicable, the amount that the offer intends to raise in funds or in any other crypto-asset. Where applicable, any minimum and maximum target subscription goals set for the offer to the public of asset-referenced tokens, and whether oversubscriptions are accepted and how they are allocated;
3. Where applicable, the total number of asset-referenced tokens to be offered or admitted to trading on a trading platform for crypto-assets;
4. Indication of the potential holders that the offer to the public of asset-referenced tokens or admission of such asset-referenced tokens to trading targets, including any restriction as regards the type of holders for such asset-referenced tokens;
5. Specific notice that purchasers participating in the offer to the public of asset-referenced tokens will be able to be reimbursed if the minimum target subscription goal is not reached at the end of the offer to the public, including the expected timeline of when such refunds will be completed; the consequences of exceeding a maximum target subscription goal should be made explicit;
6. Information about the various phases of the offer of asset-referenced tokens, including information on discounted purchase price for early purchasers of asset-referenced tokens (pre-public sales); in the case of discounted purchase price for some purchasers, an explanation why purchase prices may be different, and a description of the impact on the other investors;
7. For time-limited offers, the subscription period during which the offer to the public is open;

8. Methods of payment to buy and to redeem the asset-referenced tokens offered;
9. Information on the method and time schedule of transferring the purchased asset-referenced tokens to the holders;
- 9a Information about technical requirements the purchaser has to fulfil to hold the asset-referenced token;
10. Where applicable, name of the asset-referenced token service provider in charge of the placement of crypto-assets and the form of such placement (guaranteed or not);
11. Where applicable, the name of the trading platform for crypto-assets where admission to trading is sought, and information about the way investors can access such trading platforms and what costs are involved;
12. The law applicable to the offer to the public of asset-referenced tokens, as well as the competent courts;
13. Expenses related to the offer to the public of asset-referenced tokens;
14. Potential conflicts of interest, of the persons involved in the offer or admission to trading, pertaining to the offer or admission to trading.

**Part D: Information on the rights and obligations attached to asset-referenced tokens**

- 0a. A description of the characteristics and functionality of the asset-referenced tokens being offered or admitted to trading on a trading platform for crypto-assets, including information about when the functionalities are planned to apply;
- 0b. A description of the rights and obligations (if any) that the purchaser has, and the procedure and conditions for the exercise of these rights;
- 0c. A description of the conditions under which the rights and obligations may be modified;
- 0d. Where applicable, information on the future offers of asset-referenced tokens by the issuer and the number of asset-referenced tokens retained by the issuer itself;

- 0e. Where an admission to trading on a trading platform for crypto-assets is not sought, information on how and where the asset-referenced tokens can be acquired or sold after the offer to the public;
- 0f. Any restrictions on the transferability of the asset-referenced tokens being offered or admitted to trading on a trading platform for crypto-assets;
- 0g. Where the asset-referenced tokens has protocols for the increase or decrease of their supply in response to changes in demand, a description of the functioning of such protocols;
- 0h. The law applicable to the asset-referenced tokens, as well as the competent courts;
- 1h. Where applicable, public protection schemes protecting the value of the asset-referenced token and public compensation schemes;
- 1. Information on the nature and enforceability of rights, including permanent redemption rights and any claims that holders and any legal or natural person as referred to in Article 35(3), may have against the issuer, including information on how such rights will be treated in case of insolvency procedures; information on whether different rights are allocated to different holders and the non-discriminatory reasons for such different treatment;
  - 1a. a detailed description of the claim that the asset-referenced token represents for holders, including:
    - (i) the description of each referenced asset and specified proportions of each of these assets,
    - (ii) the relation between the value of the referenced assets and the amount of the claim and the reserve of assets, and;
    - (iii) a description how a fair and transparent valuation of components of the claim is undertaken, which identifies, where relevant, independent parties;
- 2. [deleted]

3. Where applicable, information on the arrangements put in place by the issuer to ensure the liquidity of the asset-referenced tokens, including the name of entities in charge of ensuring such liquidity;
4. The contact details for submitting complaints and description of the complaint handling procedure and any dispute resolution mechanism or redress procedure established by the issuer of asset-referenced tokens;
5. A description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency;
6. A description of rights in the context of the implementation of the recovery plan;
7. A description of rights in the context of the implementation of the orderly redemption plan;
8. Detailed information on how the asset referenced token is redeemed, including whether the holder will be able to choose the form of redemption, the form of transference or the currency of redemption;

#### **Part E: Information on the underlying technology**

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used;
2. [deleted]
3. The consensus mechanism, where applicable;
4. Incentive mechanisms to secure transactions and any fees applicable;
5. Where the asset-referenced tokens are issued, transferred and stored on a distributed ledger that is operated by the issuer or a third-party acting on his behalf, a detailed description of the functioning of such distributed ledger;
6. Information on the audit outcome of the technology used, if such an audit was conducted.

## **Part F: Risks**

1. Risks related to the reserve of assets, when the issuer is not able to fulfil its obligations;
4. A description of the risks associated with the issuer of asset-referenced tokens;
5. A description of the risks associated with the offer of asset-referenced tokens or admission to trading on a trading platform for crypto-assets;
6. A description of the risks associated with the asset-referenced tokens, in particular to the assets referenced;
7. A description of the risks associated with implementation of the asset-referenced tokens project;
8. A description of the risks associated with the technology used as well as mitigating measures (if any).

## **Part G: Reserve of assets**

1. A detailed description of the mechanism aimed at aligning the value of the reserve of assets with the claim associated to the asset-referenced tokens, including legal and technical aspects;
2. A detailed description of the reserve of assets and their composition;
3. A description of the mechanisms through which asset-referenced tokens are issued, and redeemed;
4. Information on whether a part of the reserve assets are invested and where applicable, a description of the investment policy for the reserve assets;
5. A description of the custody arrangements for the reserve assets, including the segregation of assets, and the name of credit institutions, investment firms or crypto-asset service providers appointed as custodians.





## **Annex III**

### **Disclosure items for the white paper for electronic money tokens**

#### **Part A: Information about the issuer**

1. Issuer's name;
  - 1a. Legal form;
2. Registered address and head office where different;
3. Date of the registration;
4. Legal entity identifier, if available, or national legal entity code;
  - 4a. a contact telephone number and an email address of the issuer, and a period of days during which an investor contacting the issuer via this telephone number or email address will receive an answer.
5. Where applicable, the identity of the parent company;
6. Identity, business address and functions of persons belonging to the management body of the issuer;
  - 6a. Business or professional activity of the issuer and, where applicable, its parent company
7. [deleted]

8. Potential conflicts of interest;
- 8a. In case the issuer of the e-money tokens also issued other crypto assets or has also other activities related to crypto assets, this should clearly be stated. The issuer should also state whether there is any connection between the issuer and the entity running the DLT network used to issue the crypto asset. This also applies if the protocols mentioned in the previous paragraph are run by/ or controlled by a person/ legal entity closely connected to project participants;
9. The issuer's financial condition over the past three years or where the issuer has not been established for the past three years, the issuer's financial condition record since the date of its registration.

The financial condition means a fair review of the development and performance of the business of the issuer and of its position for each year and interim period for which historical financial information is required, including the causes of material changes.

The review shall be a balanced and comprehensive analysis of the development and performance of the issuer's business and of its position, consistent with the size and complexity of the business;

10. Except for e-money issuers who are exempted from authorisation in accordance with Article 43(2)(b) and (c), details about the authorisation as an issuer of e-money tokens and name of the competent authority which granted authorisation.

## **Part B: Information about the e-money tokens**

- 1. Name of the e-money token and abbreviation;
1. Details of all natural or legal persons (including business addresses and/or domicile of the company) involved in design and development, such as advisors, development team and crypto-asset service providers.

## **Part C: Information about the offer to the public of e-money tokens or their admission to trading**

1. Indication on whether the white paper concerns an offer to the public of e-money tokens to the general public or their admission to trading on a trading platform for crypto-assets;
2. Where applicable, the total number of e-money tokens to be offered to the public or admitted to trading on a trading platform for crypto-assets;
3. Where applicable, name of the trading platforms for crypto-assets where the admission to trading of e-money tokens is sought;
4. The law applicable to the offer to the public of e-money tokens, as well as the competent courts.

## **Part D: Rights and obligations attached to e-money tokens**

1. A detailed description of the rights and obligations (if any) that the holder of the e-money token is entitled to, including the right of redemption at par value as well as the procedure and conditions for the exercise of these rights;
2. [deleted]

- 2a. A description of the conditions under which the rights and obligations may be modified;
4. The law applicable to the e-money tokens, as well as the competent courts;
5. A description of the rights of the holders when the issuer is not able to fulfil its obligations, including in insolvency;
6. A description of rights in the context of the implementation of the recovery plan;
7. A description of rights in the context of the implementation of the orderly redemption plan.
8. The contact details for submitting complaints and description of the complaint handling procedure and any dispute resolution mechanism or redress procedure established by the issuer of e-money tokens;
- 8a. Where applicable, a description of protection schemes protecting the value of the crypto-asset and compensation schemes.

#### **Part E: Information on the underlying technology**

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used, allowing for the holding, storing and transfer of such e-money tokens;
  - 1a. Information about technical requirements the purchaser has to fulfil to gain control over the e-money tokens;
2. [deleted]
3. The consensus mechanism, where applicable;
4. Incentive mechanisms to secure transactions and any fees applicable;

5. Where the e-money tokens are issued, transferred and stored on a distributed ledger that is operated by the issuer or a third-party acting on its behalf, a detailed description of the functioning of such distributed ledger;
6. Information on the audit outcome of the technology used (if any);

#### **Part F: Risks**

1. Description of risks associated with the issuer of e-money tokens;
2. Description of risks associated with the e-money tokens;
3. Description of risks associated with the technology used as well as mitigating measures (if any).

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## Annex IV

### Minimum capital requirements for crypto-asset service providers

Crypto-asset service providers	Type of crypto-asset services	Minimum capital requirements under Article 60(1)(a)
Class 1	<p>[Class 1]</p> <p>Crypto-asset service provider authorised for the following crypto-asset services:</p> <ul style="list-style-type: none"><li>– reception and transmission of orders on behalf of third parties; and/or</li><li>– providing advice on crypto-assets; and/or</li><li>– execution of orders on behalf of third parties; and/or</li><li>– placing of crypto-assets; and/or</li><li>– portfolio management on crypto-assets</li></ul> <p>- transfer of crypto-assets</p>	<p>[Class 1]</p> <p>EUR 50,000</p>



Class 2	<p>[Class 2]</p> <p>Crypto-asset service provider authorised for any crypto-asset services under class 1 and:</p> <ul style="list-style-type: none"> <li>– custody and administration of crypto-assets on behalf of third parties.</li> <li>– exchange of crypto-assets against funds;</li> <li>– exchange of crypto-assets against other crypto-assets.</li> </ul>	<p>[Class 2]</p> <p>EUR 125,000</p>
Class 3	<p>[Class 3]</p> <p>Crypto-asset service provider authorised for any crypto-asset services under class 2 and:</p> <ul style="list-style-type: none"> <li>– operation of a trading platform for crypto-assets.</li> </ul>	<p>[Class 3]</p> <p>EUR 150,000</p>



## **Annex V**

### **List of infringements referred to in Title III and Title VI for issuers of significant asset-referenced tokens, point (1)**

1. The issuer infringes Article 21 by not notifying the EBA of any change of its business model likely to have a significant influence on the purchase decision of any actual or potential holder of significant asset-referenced tokens, or by not describing such a change in a crypto-asset white paper.
2. The issuer infringes Article 21 by not complying with a measure requested by the EBA in accordance with Article 21(3).
3. The issuer infringes Article 23(1), point (a) by not acting honestly, fairly and professionally.
4. The issuer infringes Article 23(1), point (b) by not communicating with holders and potential holders of significant asset-referenced tokens in a fair, clear and not misleading manner.
5. The issuer infringes Article 23(2) by not acting in the best interests of the holders of significant asset-referenced tokens, or by giving a preferential treatment to specific holders, which is not disclosed in the issuer's white paper.
6. The issuer infringes Article 24, by not publishing on its website its approved crypto-asset white paper as referred to in Article 19(1) and, where applicable, its modified crypto-asset white paper referred to in Article 21.

7. The issuer infringes Article 24 by not making the white papers publicly accessible before the starting date of the offer to the public of the significant asset-referenced tokens or the admission of those tokens to trading on a trading platform for crypto-assets.
8. The issuer infringes Article 24 by not making the crypto-asset white paper available as long as the significant asset-referenced tokens are held by the public.
9. The issuer infringes Article 25(1) by publishing marketing communications, relating to an offer to the public of significant asset-referenced tokens, or to the admission of such significant asset-referenced tokens to trading on a trading platform for crypto-assets, which do not meet the requirements set out in Article 25(1), points (a) to (d).
- 9a. The issuer infringes Article 25(3) by not notifying marketing communications to the EBA upon request.
- 9b. The issuer infringes Article 25(4) by disseminating marketing communications before the publication of the whitepaper.
10. [deleted]
11. The issuer infringes Article 26(1) by not disclosing in a clear, accurate and transparent manner on a publicly and easily accessible place on their website the amount of significant asset-referenced tokens in circulation and the value and the composition of the reserve assets referred to in Article 32, or by not updating the required information at least once a month.
12. The issuer infringes Article 26(2) by not publishing as soon as possible on a publicly and easily accessible place on their website a brief summary of the audit report as well as the full and unredacted audit report in relation to the reserve assets referred to in Article 32.

13. The issuer infringes Article 26(3) by not disclosing in a clear, accurate and transparent manner as soon as possible any event that has or is likely to have a significant effect on the value of the significant asset-referenced tokens or the reserve assets.
14. The issuer infringes Article 27(1) by not establishing and maintaining effective and transparent procedures for the prompt, fair and consistent handling of complaints received from holders of significant asset-referenced tokens and other interested parties, including consumer associations which represent holders of asset-referenced tokens, or by not establishing procedures to facilitate the handling of complaints between holders and third-party entities as referred to in Article 30(5), point (h).
15. The issuer infringes Article 27(2), by not enabling the holders of significant asset-referenced tokens to file complaints free of charge.
16. The issuer infringes Article 27(3), by not developing and making available to the holders of significant asset-referenced tokens a template for filing complaints and by not keeping a record of all complaints received and any measures taken in response to those complaints.
17. The issuer infringes Article 27(4), by not investigating all complaints in a timely and fair manner and/or, by not communicating the outcome of such investigations to the holders of their significant asset-referenced tokens within a reasonable period of time.
18. The issuer infringes Article 28(1) by not implementing and maintaining effective policies and procedures to identify, prevent, manage and disclose conflicts of interest between the issuer itself and its shareholders, the members of its management body, its employees, any natural or legal persons that have qualifying holdings in the issuer, the holders of significant asset-referenced tokens, any third party providing one of the functions as referred in Article 30(5), point (h).

19. The issuer infringes Article 28(1) by not taking all appropriate steps to identify, prevent, manage and disclose conflicts of interest arising from the management and investment of the reserve assets.
20. The issuer infringes Article 28, paragraphs (2) to (4), by not disclosing to the holders of significant asset-referenced tokens the general nature and sources of conflicts of interest and the steps taken to mitigate those risks, or by not making this disclosure on its website in a prominent place, or by not being sufficiently precise in the disclosure to enable the holders of significant asset-referenced tokens to take an informed purchasing decision about such tokens.
21. The issuer infringes Article 29, by not notifying immediately to EBA of any changes to its management body or by not providing EBA with all the necessary information to assess compliance with Article 30(2).
22. The issuer infringes Article 30(1) by not having robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control processes, including sound administrative and accounting procedures.
23. The issuer infringes Article 30(2) by having members of its management body who do not have sufficiently good reputation and do not possess sufficient knowledge, experience and skills to perform their duties as well as they do not demonstrate that they are capable of committing sufficient time to effectively perform their duties.
- 23a. The management body of the issuer infringes Article 30(2a) by not assessing nor periodically reviewing the effectiveness of the policy arrangements and procedures put in place to comply with the obligations set out in Chapters 2, 3, 5 and 6 of this Title and by not taking appropriate measures to address any deficiencies.

- 23b. The issuer infringes Article 30(3) by having persons with qualifying holdings who do not have sufficiently good repute.
24. The issuer infringes Article 30(5) by not adopting policies and procedures that are sufficiently effective to ensure compliance with this Regulation, including compliance of its managers and employees with all the provisions of this Title, including by not establishing, maintaining and implementing any of the policies and procedures referred to in Article 30(5), points (a) to (k).
25. The issuer infringes Article 30(5) by not establishing and maintaining contractual arrangements with third-party entities as referred to in Article 30(5), point (h), that precisely set out the roles, responsibilities, rights and obligations of each of the third-party entities and the issuer, or by providing for an unambiguous choice of law for such contracts with cross-jurisdictional implications.
26. Unless they have initiated a plan as referred to in Article 42, the issuer infringes Article 30(6), by not employing appropriate and proportionate systems, resources or procedures to ensure the continued and regular performance of their services and activities, and by not maintaining all their systems and security access protocols to appropriate Union standards.
- 26a. The issuer infringes Article 30(6a) for not presenting to the competent authority for approval a plan for discontinuation of providing services and activities.
27. The issuer infringes Article 30(7) by not identifying sources of operational risks and by not minimising those risks through the development of appropriate systems, controls and procedures.

28. The issuer infringes Article 30(8) by not establishing a business continuity policy and plans that ensure, in case of an interruption of its systems and procedures, the preservation of essential data and functions and the maintenance of their activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its activities.

The issuer infringes Article 30(9) by not having in place internal control mechanisms and effective procedures for risk management, including effective control and safeguard arrangements for managing ICT systems as required by Regulation (EU) 2021/xx of the European Parliament and of the Council.

The issuer infringes Article 30(10) by not having systems and procedures in place that are adequate to safeguard the security, integrity and confidentiality of information as required by Regulation (EU) 2021/xx of the European parliament and of the Council on digital operational resilience<sup>1</sup> and in line with Regulation (EU) 2016/679<sup>2</sup> of the European parliament and of the Council (General Data Protection Regulation).

The issuer infringes Article 30(11) by not ensuring that the issuer is regularly audited by independent auditors.

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<sup>1</sup> Proposal for a Regulation of the European Parliament and the Council on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 - COM(2020)595.

<sup>2</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).



29. The issuer infringes Article 31(1) point (a) or point (ba) or 41(4) by not abiding, at all times, to the own funds requirement.
30. The issuer infringes Article 31(2) where its own funds do not consist of the common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Articles 46 and 48 of that Regulation.
31. The issuer infringes Article 31(3) by not abiding to the own funds required by the competent authority, following the assessment made in accordance with Article 31(3).
- 31a. The issuer infringes Article 31(3b) by not conducting on a regular basis, stress testing that shall take into account severe but plausible financial stress scenarios, such as interest rate shocks, and non-financial stress scenarios such as operational risk
- 31b. The issuer infringes Article 31(3b) by not abiding to hold an additional amount of own funds as requested by the EBA on the basis of the outcome of the stress-test .
32. The issuer infringes Article 32(1) by not constituting and maintaining a reserve of assets at all times.
- 32a. The issuer infringes Article 32(1ab) by not ensuring that the reserve of assets is operationally segregated from the issuer's estate, and from the reserve of assets of other tokens.

- 32b. The issuer infringes Article 32(1b) by not ensuring that the reserve of assets is composed and managed in such a way that the risks associated to the assets referenced by the significant asset-referenced token are covered.

The issuer infringes Article 32(1c) by not ensuring that the reserve of assets is composed and managed in such a way that the liquidity risks associated to the permanent redemption rights of the holders are addressed.

33. The issuer infringes Article 32(3) where its management body does not ensure effective and prudent management of the reserve of assets.
34. The issuer infringes Article 32(3) by not ensuring that the issuance and redemption of significant asset-referenced tokens is always matched by a corresponding increase or decrease in the reserve of assets.
- 34a. The issuer infringes Article 32(3) by not ensuring that the aggregated value of the reserve assets, determined from market prices, is always at least equal to the aggregate value of the claims on the issuer from holders of asset-referenced tokens in circulation.
35. The issuer infringes Article 32(4), by not having clear and detailed policies on the stabilisation mechanism of such tokens that do not meet the conditions set out in Article 32(4), points (a) to (g).
36. The issuer infringes Article 32(5) by not mandating an independent audit of the reserve of assets every 6 months, as of the date of its authorisation or issuing the asset-referenced tokens for the first time in accordance with Article 15a. The issuer infringes Article 32(5) by not notifying to the competent authority and publishing the result of the audit in accordance with 32(5).

37. The issuer infringes Article 33(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in Article 33(1) points (a) to (e) are met.
38. The issuer infringes Article 33(1) by not having a custody policy for each reserve of assets it manages.
39. The issuer infringes Article 33(2) where the reserve assets are not held in custody by a crypto-asset service provider, by a credit institution, or by an investment firm by no later than 5 business days after the issuance of the significant asset-referenced tokens.
40. The issuer infringes Article 33(3) by not exercising all due skill, care, diligence in the selection, appointment and review of credit institutions, investment firms and crypto-asset service providers appointed as custodians of the reserve assets, or by not ensuring that the custodian is a different legal person from the issuer.
41. The issuer infringes Article 33(3) by not ensuring that the credit institutions, investment firms and crypto-asset service providers appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.
42. The issuer infringes Article 33(3) by not having contractual arrangements with the custodians that ensure that the reserve assets held in custody are protected against claims of the custodians' creditors.
43. The issuer infringes Article 33(3) by not having custody policies and procedures that set out the selection criteria for the appointments of credit institutions, investment firms or crypto-asset service providers as custodians of the reserve assets and/or by not having the procedure to review such appointments.

44. The issuer infringes Article 33(3) by not reviewing the appointment of credit institutions, investment firms or crypto-asset service providers as custodians of the reserve assets on a regular basis, and, by not evaluating its exposures to such custodians, and by not monitoring the financial conditions of such custodians on an ongoing basis.
45. The issuer infringes Article 33(4) where the reserve assets are not entrusted to credit institutions, investment firms or crypto-asset service providers in accordance with Article 33(4) points (a) to (d).
46. The issuer infringes Article 33(5) where the appointment of a custodian is not evidenced by a written contract, or where such a contract does not regulate the flow of information deemed necessary to enable the issuers, the credit institutions, investment firms and the crypto-assets service providers to perform their functions.
47. The issuer infringes Article 34(1) by investing the reserve of assets in any products that are not highly liquid financial instruments with minimal market, credit and concentration risks or where such investments cannot be liquidated rapidly with minimal price effect.
48. The issuer infringes Article 34(2) by not holding in custody the financial instruments in which the reserve assets are held in accordance with Article 33.
49. The issuer infringes Article 34(3) by not bearing all profits and losses and any counterparty or operational risks that result from the investment of the reserve of assets.

50. The issuer infringes Article 35(1), by not establishing, maintaining and implementing clear and detailed policies and procedures on the rights granted to holders of significant asset-referenced tokens.
51. The issuer infringes Article 35(1) and (2) by not providing holders of significant asset-referenced tokens with a permanent right of redemption in accordance with Article 35(1), (2) , and by not establishing a policy that meets the conditions listed in Article 35(2), points (a) to (ea).
- 51c. The issuer infringes Article 35(3) by applying fees in the event of the redemption of significant asset-referenced tokens.
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59. The issuer infringes Article 36 by granting interests in relation to significant asset-referenced tokens.

60. The issuer infringes Article 41(1) by not adopting, implementing and maintaining a remuneration policy that promotes sound and effective risk management of such issuers and that does not create incentives to relax risk standards.
61. The issuer infringes Article 41(2) by not ensuring that its significant asset-referenced tokens can be held in custody by different crypto-asset service providers authorised for the service referred to in Article 3(1), point (10), on a fair, reasonable and non-discriminatory basis.
62. The issuer infringes Article 41(3) by not assessing or monitoring the liquidity needs to meet redemption requests or the exercise of rights, as referred to in Article 36, by holders of significant asset-referenced tokens.
63. The issuer infringes Article 41(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not having policy and procedures that ensure that the reserve assets have a resilient liquidity profile that enables the issuer of significant asset-referenced tokens to continue operating normally, including under liquidity stressed scenarios.
- 63aa. The issuer infringes Article 41(3a) by not conducting on a regular basis, liquidity stress testing and by not strengthening the liquidity risk requirements requested by the EBA.
- 63a. The issuer infringes Article 41a(1) by not establishing a recovery plan providing for measures to be taken by the issuer to restore the compliance with the requirements applicable to the reserve of assets when the issuer fails to comply with those requirements, including the preservation of its services related to the significant asset-referenced tokens issued, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that pose a significant risk of disrupting operations.

- 63c. The issuer infringes Article 41a(1) by not establishing a plan that includes appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options.
- 63d. The issuer infringes Article 41a(2) by not notifying the recovery plan to the competent authority and, where applicable, resolution and prudential supervisory authorities, within 6 months after the date of authorisation or issuing the asset-referenced tokens for the first time in accordance with Article 15a.
- 63e. The issuer infringes Article 41a(2) by not reviewing or updating the plan regularly.
64. The issuer infringes Article 42(1) by not having in place and maintaining an operational plan that is appropriate to support an orderly redemption of its significant asset-reference tokens.

The issuer infringes Article 42(1) by not having a plan that demonstrates the ability of the issuer of significant asset-referenced tokens to carry out the redemption of outstanding asset-referenced tokens issued without causing undue economic harm to their holders or to the stability of the markets of the reserve assets

65. The issuer infringes Article 42(2) by not having a plan that includes contractual arrangements, procedures or systems, including the designation of a temporary administrator, to ensuring the equitable treatment between all holders of significant asset-referenced tokens and that the holders of significant asset-referenced tokens are paid in a timely manner with the proceeds from the sale of the remaining reserve assets.

65a. The issuer infringes Article 42(2) by not ensuring the continuity of any critical activities performed by issuers or by any third-party entities, which are necessary for the orderly redemption.

The plan shall ensure the continuity of any critical activities performed by issuers or by any third-party entities, which are necessary for the orderly redemption

65b. The issuer infringes Article 42(3) by not notifying the redemption plan to the competent authority within 6 months after the date of issuing a significant e-money token.

66. The issuer infringes Article 42(3) by not reviewing or updating the plan regularly.

67. Unless the conditions of Article 77(2) are met, the issuer infringes Article 77(1) by not informing the public as soon as possible of inside information, which concerns that issuer, in a manner that enables easy and widespread access to that information and its complete, correct and timely assessment by the public.



## **Annex VI**

### **List of infringements of provisions referred to in Title III by application of Title IV for issuers of significant electronic money tokens**

1. The issuer infringes Article 30(6a) for not presenting to the competent authority for approval a plan for discontinuation of providing services and activities.
- 1a. The issuer infringes Article 32(1) by not constituting and maintaining a reserve of assets at all times.
- 1b. The issuer infringes Article 32(1ab) by not ensuring that the reserve of assets is operationally segregated from the issuer's estate, and from the reserve of assets of other tokens.
- 1c. The issuer infringes Article 32(1b) by not ensuring that the reserve of assets is composed and managed in such a way that the risks associated to the assets referenced by the significant e-money token are covered.

The issuer infringes Article 32(1c) by not ensuring that the reserve of assets is composed and managed in such a way that the liquidity risks associated to the permanent redemption rights of the holders are addressed.
- 1d. The issuer infringes Article 32(3) where its management body does not ensure effective and prudent management of the reserve of assets.
- 0f. The issuer infringes Article 32(3) by not ensuring that the issuance and redemption of e-money tokens is always matched by a corresponding increase or decrease in the reserve of assets.
- 0g. The issuer infringes Article 32(3) by not ensuring that the aggregated value of the reserve assets, determined from market prices, is always be at least equal to the aggregate value of the claims on the issuer from holders of e-money tokens in circulation.

- 1g. The issuer infringes Article 32(4), by not having clear and detailed policies on the stabilisation mechanism of such tokens that meet the conditions set out in Article 32(4), points (a) to (g).
- 0i. The issuer infringes Article 32(5) by not mandating an independent audit of the reserve of assets every 6 months, after the date of issuing the e-money token.

The issuer infringes Article 32(5) by not notifying to the competent authority or by not publishing the result of the audit in accordance with 32(5).

1. The issuer infringes Article 33(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in Article 33(1), points (b) to (f) are met.
2. The issuer infringes Article 33(1) by not having a custody policy for each reserve of assets it manages.
3. The issuer infringes Article 33(2) where the reserve assets are not held in custody by a crypto-asset service provider, by a credit institution or by an investment firm by no later than 5 business days after the issuance of the significant e-money tokens.
4. The issuer infringes Article 33(3) by not exercising all due skill, care, diligence in the selection, appointment and review of credit institutions, investment firms and crypto-asset service providers appointed as custodians of the reserve assets or by not ensuring that the custodian is a different legal person from the issuer.
5. The issuer infringes Article 33(3) by not ensuring that the credit institutions, investment firms and crypto-asset service providers appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.

6. The issuer infringes Article 33(3) by not having contractual arrangements with the custodians that ensure that the reserve assets held in custody are protected against claims of the custodians' creditors.
7. The issuer infringes Article 33(3) by not having custody policies and procedures that set out the selection criteria for the appointments of credit institutions, investment firms or crypto-asset service providers as custodians of the reserve assets and/or the procedure to review such appointments.
8. The issuer infringes Article 33(3) by not reviewing the appointment of credit institutions, investment firms or crypto-asset service providers as custodians of the reserve assets on a regular basis, and/or, by not evaluating its exposures to such custodians, and/or monitoring the financial conditions of such custodians on an ongoing basis.
9. The issuer infringes Article 33(4) where the reserve assets are not entrusted to credit institutions, investment firms or crypto-asset service providers in accordance with Article 33(4), points (a) to (d).
10. The issuer infringes Article 33(5) where the appointment of a custodian is not evidenced by a written contract, or where such a contract does not regulate the flow of information deemed necessary to enable the issuers and the credit institutions, investment firms and the crypto-assets service providers to perform their functions.
11. The issuer infringes Article 34(1) by investing the reserve assets in any products that are not highly liquid financial instruments with minimal market, credit and concentration risks or where such investments cannot be liquidated rapidly with minimal price effect.
12. The issuer infringes Article 34(2) by not holding the financial instruments in which the reserve assets are held in custody in accordance with Article 33.

13. The issuer infringes Article 34(3) by not bearing all profits and losses and any counterparty or operational risks that result from the investment of the reserve assets.
14. The issuer infringes Article 41(1) by not adopting, implementing and maintaining a remuneration policy that promotes sound and effective risk management of such issuers and that does not create incentives to relax risk standards.
15. The issuer infringes Article 41(2) by not ensuring that its significant e-money tokens can be held in custody by different crypto-asset service providers authorised for the service referred to in Article 3(1) point (10), on a fair, reasonable and non-discriminatory basis.
16. The issuer infringes Article 41(3) by not assessing or monitoring the liquidity needs to meet redemption requests by holders of significant e-money tokens.

The issuer infringes Article 41(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not having policy and procedures that ensure that the reserve assets have a resilient liquidity profile that enable the issuer to continue operating normally, including under liquidity stressed scenarios.

- 16a. The issuer infringes Article 41(3a) by not conducting on a regular basis, liquidity stress testing and by not strengthening the liquidity risk requirements requested by the EBA.
17. The issuer infringes Article 41(4) by not abiding, at all times, to the own funds requirement.
18. The issuer infringes Article 31(2) where its own funds does not consist of the common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Articles 46 and 48 of that Regulation.

19. The issuer infringes Article 31(3) by not abiding to the own funds required by the competent authority, following the assessment made in accordance with Article 31(3).

19a The issuer infringes Article 31(3b) by not conducting on a regular basis, stress testing that shall take into account severe but plausible financial stress scenarios, such as interest rate shocks, and non-financial stress scenarios such as operational risk.

The issuer infringes Article 31(3b) by not abiding to hold an additional amount of own funds as requested by the EBA on the basis of the outcome of the stress-test .

19b The issuer infringes Article 41a(1) by not establishing a recovery plan providing for measures to be taken by the issuer to restore the compliance with the requirements applicable to the reserve of assets when the issuer fails to comply with those requirements, including the preservation of its services related to the significant asset-referenced tokens issued, the timely recovery of operations and the fulfilment of the issuer's obligations in the case of events that pose a significant risk of disrupting operations.

19b. The issuer infringes Article 41a(1) by not establishing a plan that includes appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options.

19c. The issuer infringes Article 41a(2) by not notifying the recovery plan to the competent authority and, where applicable, resolution and prudential supervisory authorities, within 6 months after the date of issuing e-money tokens.

19d. The issuer infringes Article 41a(2) by not reviewing or updating the plan regularly.

20. The issuer infringes Article 42(1) by not having in place and maintaining an operational plan that is appropriate to support an orderly redemption of its significant e-money tokens.

The issuer infringes Article 42(1) by not having a plan that demonstrates the ability of the issuer of significant e-money tokens to carry out the redemption of outstanding significant e-money tokens issued without causing undue economic harm to their holders or to the stability of the markets of the reserve assets.

21. The issuer infringes Article 42(2) by not having a plan that includes contractual arrangements, procedures or systems, including the designation of a temporary administrator, to ensuring the equitable treatment between all holders of significant e-money tokens and that the holders of significant e-money tokens are paid in a timely manner with the proceeds from the sale of the remaining reserve assets.
- 21a. The issuer infringes Article 42(2) by not ensuring the continuity of any critical activities performed by issuers or by any third-party entities, which are necessary for the orderly redemption.
22. The issuer infringes Article 42(3) by not notifying the redemption plan to the competent authority within 6 months after the date of issuing of e-money tokens.
- 22a. The issuer infringes Article 42(3) by not reviewing or updating the plan regularly.
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