

REQUIREMENTS FOR THE OFFER TO THE PUBLIC OR ADMISSION TO TRADING OF CRYPTO-ASSETS OTHER THAN ASSET-REFERENCED TOKENS OR E-MONEY TOKENS

I. Introduction

On 29 June 2023, the 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 2023/1114/EU Regulation (MiCA) is entered into force, the parts of which relate to the issuance of crypto-assets other than asset-referenced tokens or e-money tokens are applicable from December 30, 2024. The scope of the MiCA covers natural and legal persons, as well as certain other enterprises, which are involved in the issuance of crypto-assets, their public offering and introduction to trading, or provide services related to crypto-assets in the Union. The MiCA requires the preliminary notification of the public offering of crypto-assets other than asset-referenced tokens or e-money tokens or their introduction to trading to the Central Bank of Hungary (CBH), which must be provided by the issuers of crypto-assets other than asset-referenced tokens or e-money tokens 20 working days before the public offering of crypto-assets other than asset-referenced tokens or e-money tokens of crypto-asset white paper or their introduction to trading (Article 8 (5) of MiCA).

Implementation of MiCA in Hungary

As of 30 June 2024, the Act VII of 2024 on the market of crypto-assets (Kripto Act) placed under CBH's supervision the activities of the organizations, persons and activities covered by the relevant legislation, such as crypto-assets other than asset-referenced tokens or e-money tokens issuers. According to Point 41, Article 40 of Act of CXXXIX of 2013 on the Central Bank of Hungary (**Act on CBH**), "*[i]n carrying out its tasks provided for in Paragraph t) of Subsection (1) of Section 39 the MNB shall provide for the implementation of 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.*".

II. Requirements by issuers of crypto-assets other than asset-referenced tokens or e-money tokens

The issuer of the crypto-assets other than asset-referenced tokens or e-money tokens shall publish a crypto-asset white paper and where applicable marketing communications on its website before the public offering (or at latest before their start date) in the EU or the application for the introduction of token into trading. Pursuant to Article 4 (1) of the MiCA, a person shall not make an offer to the public or seek the admission to trading of a crypto-assets other than asset-referenced tokens or e-money token, within the Union, unless that person is a legal person and:

- a) has drawn up a crypto-asset white paper in respect of that crypto-asset in accordance with Article 6;
- b) has notified the crypto-asset white paper in accordance with Article 8 and published with Article 9;
- c) complies with the requirements for offerors laid down in Article 14.

III. The content and form of the crypto-asset basic document and marketing announcement of crypto-assets other than asset-referenced tokens or e-money tokens

III.1. Crypto-asset white paper

The crypto-asset white paper of the crypto-assets other than asset-referenced tokens or e-money tokens must contain all the following specified information (MiCA Article 6, Annex I):

- a) information about the offeror or the person seeking admission to trading;
- b) information about the issuer, if different from the offeror or person seeking admission to trading;

- c) information about the operator of the trading platform in cases where it draws up the crypto-asset white paper;
- d) information about the crypto-asset project;
- e) information about the offer to the public of the crypto-asset or its admission to trading;
- f) information about the crypto-asset;
- g) information on the rights and obligations attached to the crypto-asset;
- h) information on the underlying technology;
- i) information on the risk;
- h) information on the on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the crypto-asset.

In cases where the crypto-asset white paper is not drawn up by the persons referred to in the first subparagraph, points (a), (b) and (c), the crypto-asset white paper shall also include the identity of the person that drew up the crypto-asset white paper and the reason why that particular person drew it up.

The crypto-asset white paper shall include a summary inserted after the management statement, which briefly and in layman's language contains key information about the public offering or planned admission to trading of the crypto-assets other than asset-referenced token or e-money token. The summary shall be easy to understand and should be written in a clear and understandable form and shall be displayed in legible size characters. The summary of the crypto-asset master document shall provide adequate information about the properties of the crypto-assets concerned in order to help the future potential holders of the crypto-assets to make an informed decision.

All the information listed shall be fair, clear and not misleading. The crypto-asset white paper shall not contain material omissions and shall be presented in a concise and comprehensible form.

The crypto-asset white paper shall contain the following clear and prominent statement on the first page:

„This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset white paper.“

The crypto-asset white paper shall not contain any assertions as regards the future value of the crypto-asset, other than the statement referred to in paragraph 5.

The crypto-asset white paper shall contain a clear and unambiguous statement that:

- the crypto-asset may lose its value in part or in full;
- the crypto-asset may not always be transferable;
- the crypto-asset may not be liquid;
- where the offer to the public concerns a utility token, that utility token may not be exchangeable against the good or service promised in the crypto-asset white paper, especially in the case of a failure or discontinuation of the crypto-asset project;
- the e-money token is not covered by the investor compensation schemes under Directive 97/9/EC;
- the e-money token is not covered by the deposit guarantee schemes under Directive 2014/49/EU.

The crypto-asset white paper shall contain a statement from the management body of the offeror, the person seeking admission to trading or the operator of the trading platform. That statement, which shall be

inserted after the statement referred to in paragraph 3, shall confirm that the crypto-asset white paper complies with this Title and that, to the best of the knowledge of the management body, the information presented in the crypto-asset white paper is fair, clear and not misleading and the crypto-asset white paper makes no omission likely to affect its import.

The crypto-asset white paper shall contain a summary, inserted after the statement referred to in paragraph 6, which shall in brief and non-technical language provide key information about the offer to the public of the crypto-asset or the intended admission to trading. The summary shall be easily understandable and presented and laid out in a clear and comprehensive format, using characters of readable size. The summary of the crypto-asset white paper shall provide appropriate information about the characteristics of the crypto-asset concerned in order to help prospective holders of the crypto-asset to make an informed decision.

The summary shall contain a warning that:

- it should be read as an introduction to the crypto-asset white paper;
- the prospective holder should base any decision to purchase the crypto-asset on the content of the crypto-asset white paper as a whole and not on the summary alone;
- the offer to the public of the crypto-asset does not constitute an offer or solicitation to purchase financial instruments and that any such offer or solicitation can be made only by means of a prospectus or other offer documents pursuant to the applicable national law;
- the crypto-asset white paper does not constitute a prospectus as referred to in Regulation (EU) 2017/1129 or any other offer document pursuant to Union or national law;

The crypto-asset white paper shall contain the date of its notification and a table of contents. Furthermore, the crypto-asset white paper shall be drawn up in an official language of the home Member State or in a language customary in the sphere of international finance.

Where the crypto-asset is also offered in a Member State other than the home Member State, the crypto-asset white paper shall also be drawn up in an official language of the host Member State or in a language customary in the sphere of international finance.

Issuers of crypto-assets other than asset-referenced tokens or e-money tokens shall notify their crypto-asset white paper to their competent authority at least 20 working days before the date of their publication. Competent authorities shall not require prior approval of crypto-asset white papers before their publication.

III.2. Marketing communications (Article 7)

Marketing communications relating to an offer to the public of crypto-assets other than asset-referenced token or e-money token, or to the admission to trading of such token, shall comply with all the following requirements:

- the marketing communications are clearly identifiable as such;
- the information in the marketing communications is fair, clear and not misleading;
- the information in the marketing communications is consistent with the information in the crypto-asset white paper;

- the marketing communications clearly state that a crypto-asset white paper has been published and clearly indicate the address of the website of the offeror, the person seeking admission to trading, or the operator of the trading platform for the crypto-asset concerned, as well as a telephone number and an email address to contact that person.
- the marketing communications contain the following clear and prominent statement:
“This crypto-asset marketing communication has not been reviewed or approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset marketing communication.”

Where a crypto-asset white paper is required pursuant to Article 4 or 5, no marketing communications shall be disseminated prior to the publication of the crypto-asset white paper. The ability of the offeror, the person seeking admission to trading or the operator of a trading platform, to conduct market soundings shall not be affected.

IV. Powers of competent authorities (Article 94)

To require any person to provide information and documents which the competent authorities consider could be relevant for the performance of their duties

to disclose, or to require a crypto-asset servicer provider to disclose, all material information which might have an effect on the provision of the crypto-asset services concerned, in order to ensure the protection of the interests of clients, in particular retail holders, or the smooth operation of the market

to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e- money tokens to amend their crypto-asset white paper or further amend their modified crypto-asset white paper, where they find that the crypto-asset white paper or the modified crypto-asset white paper does not contain the information required by Article 6;

to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e- money tokens, to amend their marketing communications, where they find that the marketing communications do not comply with the requirements set out in Article 7 of this Regulation;

to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e- money tokens, to include additional information in their crypto-asset white papers, where necessary for financial stability or the protection of the interests of the holders of crypto-assets, in particular retail holders;

to suspend an offer to the public or an admission to trading of crypto-assets for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that this Regulation has been infringed;

to prohibit an offer to the public or an admission to trading of crypto-assets where they find that this Regulation has been infringed or where there are reasonable grounds for suspecting that it will be infringed;

V. Processing of the notification

Offerors, persons seeking admission to trading, or operators of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens shall notify their crypto-asset white paper to the competent authority of their home Member State, in the case of a company with its registered office in Hungary, to the CBH.

Marketing communications shall, upon request, be notified to the competent authority of the home Member State and to the competent authority of the host Member State, when addressing prospective holders of crypto-assets other than asset-referenced tokens or e-money tokens in those Member States

Issuers of crypto-assets other than asset-referenced tokens or e-money tokens shall notify their crypto-asset white paper to their competent authority at least 20 working days before the date of their publication [Article 8 (5)]

Notification in the ERA system of the CBH under the E-Administration Licensing service under " Notification regarding to the public of crypto-assets other than asset-referenced tokens or e-money tokens or admission to trading of crypto-assets other than asset-based tokens or electronic money tokens in realiton white paper and marketing communications " against the payment of an administrative service fee on the form named

After checking that the reported information is complete, the CBH must notify ESMA the information specified in Article 109(5) of the MiCA. 6/6 ESMA will provide this information until the start date of the planned provision of crypto-asset services makes it available in the register referred to in Article 109 of the MICA.

VI. Administrative service fee

According to Paragraph 5, Art. 19/A. on CBH's Decree of 32/2023. (VII.19.) on the administrative service fee for certain authorization and registration procedures carried out within the framework of the supervision of the financial intermediary system and with respect to trust companies, the administrative service fee for the procedure for the notification of the basic crypto-asset document required for the public offering of the crypto-assets other than asset-referenced tokens or e-money token and its introduction to trading is HUF 1,100,000.

VII. Other information

If, after studying this guide, you have additional questions or questions in a specific case which questions cannot be answered by phone or in written, CBH provides you with the opportunity of a personal consultation. With the possibility of personal consultation, please contact the secretariat of the Capital Market Law Enforcement and Issuance Licensing Department (email address: tjktit@MNB.hu).

If you have any questions that are only of an IT nature, please contact directly the IT Supervision Department by phone (061-489-9780) or e-mail address (iff@MNB.hu).

December 2024.