

REQUIREMENTS FOR THE OFFER TO THE PUBLIC OR ADMISSION TO TRADING OF 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 e-money tokens are applicable from June 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 e-money tokens or their introduction to trading to the Central Bank of Hungary (**CBH**), which must be provided by the issuers of e-money tokens 20 working days before the public offering of e-money tokens or their introduction to trading (Article 51 (11) of MiCA). At the same time, issuers of e-money tokens notify the CBH of their intention to publicly offer e-money tokens or their introduction to trading at least 40 working days before the public offer or introduction to trading (Article 48, paragraph 6).

Implementation of MiCA in Hungary

As of 30 June 2024, the Act VII of 2024 on the market of crypto-assets (Kriptotv.) placed under CBH's supervision the activities of the organizations, persons and activities covered by the relevant legislation, such as e-money token 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 e-money tokens

The issuer of the e-money token shall publish a crypto-asset white paper on its website before the public offering of the e-money token in the EU or the application for the introduction of such e-money token into trading. Pursuant to Article 48 (1) of the MiCA, a person shall not make an offer to the public or seek the admission to trading of an e-money token, within the Union, unless that person is the issuer of such e-money token and: a) is authorised as a credit institution or as an electronic money institution; and b) has notified a crypto-asset white paper to the competent authority and has published that crypto-asset white paper in accordance with Article 51. Notwithstanding the first subparagraph, upon the written consent of the issuer, other persons may offer to the public or seek the admission to trading of the e-money token. Those persons shall comply with Articles 50 and 53.

III. The content and form of the crypto-asset basic document and marketing announcement of e-money tokens

III.1. Crypto-asset white paper

The crypto-asset white paper of the e-money token must contain all of the following specified information (MiCA Article 51, Annex III):

- a) information about the issuer of the e-money token;
- b) information about the e-money token;
- c) information regarding the public offering of the e-money token or its introduction into trading;
- d) information on the rights and obligations related to the e-money token;
- e) information about the underlying technology;
- f) information on risks; g) information on the main adverse effects on the climate and other adverse effects related to the environment of the consensus mechanism used to issue the e-money token.

The crypto-asset white paper must also contain the identity of the person other than the issuer who, based on the second subparagraph of Article 48 (1) of the MiCA, offers an e-money token in the framework of a public offer or requests its introduction to trading, as well as the reason why the a given person offers this e-money token or requests its introduction to trading. All listed information must be true, clear and non-misleading, the crypto-asset master document must not lack essential information, and its format must be concise and understandable.

The crypto-asset white paper must 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 e-money token. The summary should be easy to understand and should be written in a clear and understandable form and should be displayed in legible size characters. The summary of the crypto-asset master document provides 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.

A crypto-asset white paper for an e-money token shall contain all of the following information, as further specified in Annex III:

- (a) information about the issuer of the e-money token;
- (b) information about the e-money token;
- (c) information about the offer to the public of the e-money token or its admission to trading;
- (d) information on the rights and obligations attached to the e-money token;
- (e) information on the underlying technology;
- (f) information on the risks;
- (g) information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the e-money token.

The crypto-asset white paper shall also include the identity of the person other than the issuer that offers the e-money token to the public or seeks its admission to trading pursuant to Article 48(1), second subparagraph, and the reason why that particular person offers that e-money token or seeks its admission to trading.

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 issuer of the crypto-asset is solely responsible for the content of this crypto-asset white paper.”

The crypto-asset white paper shall contain a clear warning that:

- 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 issuer of the e-money token. 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 complete, fair, clear and not misleading and that 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 5, which shall in brief and non-technical language provide key information about the offer to the public of the e-money token or the intended admission to trading of such e-money token. 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-assets concerned in order to help prospective holders of the crypto-assets 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 e-money token 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 e-money token 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 summary shall state that holders of the e-money token have a right of redemption at any time and at par value as well as the conditions for redemption.

The crypto-asset white paper shall contain the date of its notification and a table of contents.

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 e-money token 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 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.

Any significant new factor, any material mistake or any material inaccuracy that is capable of affecting the assessment of the e-money token shall be described in a modified crypto-asset white paper drawn up by the issuers, notified to the competent authorities and published on the issuers' websites.

Before offering the e-money token to the public in the Union or seeking an admission to trading of the e-money token, the issuer of such e-money token shall publish a crypto-asset white paper on its website.

The issuer of the e-money token shall together with the notification of the crypto-asset white paper pursuant to paragraph 11 of this Article provide the competent authority with the information referred to in Article 109(4). The competent authority shall communicate to ESMA, within five working days of receipt of the information from the issuer, the information specified in Article 109(4):

- the name, legal form and legal entity identifier of the issuer
- the commercial name, physical address, telephone number, email and website of the issuer;

- the crypto-asset white papers and any modified crypto-asset white papers, with the out-of-date versions of the crypto-asset white paper kept in a separate archive and clearly marked as out-of-date;
- the starting date, or, if not available at the time of the notification by the competent authority, the intended starting date, of the offer to the public or the admission to trading;
- any other services provided by the issuer not covered by this Regulation, with a reference to the applicable Union or national law;
- the date of authorisation as a credit institution or as an e-money institution and, where applicable, of withdrawal of that authorisation

The publication elements of the crypto-asset white paper in MiCA III. no. included in its annex, as well as additional strategic, risk regulations and details are included in the draft RTS.1

III.2. Marketing communications (Article 53)

Marketing communications relating to an offer to the public of an e-money token, or to the admission to trading of such e-money 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 issuer of the e-money token, as well as a telephone number and an email address to contact the issuer.

Marketing communications shall contain a clear and unambiguous statement that the holders of the e-money token have a right of redemption against the issuer at any time and at par value. Marketing communications and any modifications thereto shall be published on the issuer's website. Competent authorities shall not require prior approval of marketing communications before their publication. Marketing communications shall be notified to the competent authorities upon request. No marketing communications shall be disseminated prior to the publication of the crypto-asset white paper. Such restriction does not affect the ability of the issuer of the e-money token to conduct market soundings.

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

¹ Draft technical Standards specifying certain requirements in relation to conflicts of interest for crypto-asset service providers under the Markets in Crypto Assets Regulation (MiCA)

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, 19 or 51;

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, 29 or 53 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

A legal entity intending to publicly offer or introduce e-money tokens into trading persons or other businesses submit the notification to the competent authority of the Member State in which they are domiciled in, in the case of a company with its registered office in Hungary, to the CBH.

Issuers of e-money tokens shall, at least 40 working days before the date on which they intend to offer to the public those e-money tokens or seek their admission to trading, notify their competent authority of that intention [Article 48 (6)]

Issuers of 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 51 (11)]

Notification in the ERA system of the CBH under the E-Administration Licensing service under "Notification in for the public offering of e-money tokens and for trading in relation to crypto-asset basic documents and marketing announcements prepared for introduction" 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 electronic 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).

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