Comparison of MiCA’s text, suggested substantive changes from the ECB Opinion and Rapporteur’s amendments

MiCA’s text	Amendments proposed by the ECB	Amendments proposed by the Rapporteur
Recital 7 **‘(7) Crypto-assets issued by central banks acting in their monetary authority capacity or by other public authorities should not be subject to the Union framework covering crypto-assets, and neither should services related to crypto-assets that are provided by such central banks or other public authorities.’**	**Recital 7** ‘(7) Crypto-assets **and central bank money** issued **based on DLT or in digital form** by central banks acting in their monetary authority capacity or by other public authorities should not be subject to the Union framework covering crypto-assets, and neither should services related to crypto-assets **and central bank money issued based on DLT or in digital form** that are provided by such central banks or other public authorities.’ **ECB Explanation** In order to avoid any potential confusion with regard to the legal nature and characteristics of crypto-assets issued by central banks, the ECB suggests that the proposed regulation refers to the issuance of central bank money based on DLT or in digital form by central banks, in the case of the ECB in accordance with the Treaty and the Statute of the European System of Central Banks and the European Central Bank (the ‘Statute of the ESCB’).	**None**
	New Recital 7a 127(2), of the Treaty on the Functioning of the European Union (TFEU), one of the basic tasks to be carried out through the European System of Central Banks (ESCB) is to promote the smooth operation of payment systems. The ECB may, pursuant to Article 22 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ‘Statute of the ESCB’), make regulations to ensure efficient and sound clearing and payment systems within the Union and with other countries. In this respect, the European Central Bank (ECB) has adopted regulations on requirements for systemically important payment systems. This Regulation is without prejudice to the responsibilities of the ECB and the national central banks (NCBs) in the ESCB to ensure efficient and sound	**None**

	clearing and payment systems within the Union and with other countries. Consequently, and in order to prevent the possible creation of parallel sets of rules, the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the ESCB should cooperate closely when preparing the relevant draft technical standards. Further, the access to information by the ECB and the NCBs is crucial when fulfilling their tasks relating to the oversight of clearing and payment systems.' **ECB Explanation** In view of the close links between the provisions of the proposed regulation and the competences of the ECB and the ESCB under the Treaty, reference to these competences should be explicitly mentioned in the proposed regulation.	
Recital 12 **12. […] A first category of such services consist of ensuring the operation of a trading platform for crypto-assets, exchanging crypto-assets against fiat currencies that are legal tender or other crypto-assets by dealing on own account, and the service, on behalf of third parties, of ensuring the custody and administration of crypto-assets or ensuring the control of means to access such crypto-assets. […]'**	**Recital 12** '12. […] A first category of such services consist of ensuring the operation of a trading platform for crypto-assets, exchanging crypto-assets against ~~fiat~~ **official** currencies ~~that are legal tender~~ or other crypto-assets by dealing on own account, and the service, on behalf of third parties, of ensuring the custody and administration of crypto-assets or ensuring the control of means to access **to** such crypto-assets. […]' **ECB Explanation** It is not appropriate to make reference in a Union legal text to 'fiat currencies which are legal tender'. Rather, reference should be made to 'currencies' or 'official currencies'. See paragraph [2.1.5] of the ECB Opinion.	**None**
Recital 29 **'(29) A competent authority should refuse authorization where the prospective issuer of asset-referenced tokens' business model may pose a serious threat to financial stability, monetary policy transmission and monetary sovereignty. The competent authority should consult the EBA and ESMA and, where the asset-referenced tokens is referencing Union currencies, the European Central Bank**	**Recital 29** '(29) A competent authority should refuse authorization where the prospective issuer of asset-referenced tokens' business model may pose a serious threat to financial stability, monetary policy transmission and monetary sovereignty. The competent authority should consult the EBA and ESMA and, where the asset-referenced tokens is referencing Union currencies, the ~~European Central Bank (~~ECB~~)~~ and the national central bank of	**Recital 29** '(29) A competent authority should refuse authorization where the prospective issuer of asset-referenced tokens' business model may pose a serious threat to financial stability, monetary policy transmission and monetary sovereignty. The competent authority ~~should~~ **must** consult the EBA and ESMA and, where the asset-referenced tokens is referencing Union currencies, the European Central Bank (ECB) and the national central bank

(ECB) and the national central bank of issue of such currencies before granting an authorization or refusing an authorization. The EBA, ESMA, and, where applicable, the ECB and the national central banks should provide the competent authority with a non-binding opinion on the prospective issuer's application. […].'	issue of such currencies before granting an authorization or refusing an authorization. The EBA, ESMA, and, where applicable, the ECB and the national central banks should provide the competent authority with an ~~non-binding~~ opinion on the prospective issuer's application. **Such opinions shall be non-binding, except that such opinions issued by the ECB and the national central banks shall be binding as regards the conduct of monetary policy, and the promotion of the smooth operation of payment systems. […]'** **ECB Explanation** In view of the exclusive competence of the ECB and the Eurosystem for the conduct of the monetary policy of the Union, and the promotion of the smooth functioning of payment systems, under Article 127(2), first and fourth indents, and Article 282(1) of the Treaty, and considering that the national central banks of the Member States which have not adopted the euro retain their powers in the field of monetary policy according to national law under Article 42.2 of the Statute of the ESCB, the competent authority should only refuse authorization to a prospective issuer of asset-referenced tokens on monetary policy and payment system grounds where acting in accordance with the opinion of the ECB or the national central banks issuing the relevant Union currencies.	of issue of such currencies before granting an authorization or refusing an authorization. The EBA, ESMA, and, where applicable, the ECB and the national central banks should provide the competent authority with a non-binding opinion on the prospective issuer's application. **The statements, with the exception of those of the European Central Bank and the central banks of the Member States on the implementation of monetary policy and ensuring secure processing of payment transactions, are non-binding.** […].'
Article 3(1) points (3), (4) and (21) **'(3) 'asset-referenced token' means a type of crypto-asset that purports to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or several commodities or one or several crypto-assets, or a combination of such assets;** **(4) 'electronic money token' or 'e-money token' means a type of crypto-asset the main purpose of which is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a fiat currency that is legal tender; […]** **(21) 'reserve assets' means the basket of fiat currencies that are legal tender, commodities or crypto-assets,**	**Article 3(1) points (3), (4) and (21)** '(3) 'asset-referenced token' means a type of crypto-asset that purports to maintain a stable value by referring to the value of several ~~fiat~~ **official** currencies **of** ~~that are legal tender~~, one or several commodities or one or several crypto-assets, or a combination of such assets; (4) 'electronic money token' or 'e-money token' means a type of crypto-asset the main purpose of which is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a**n** ~~fiat~~ **official** currency ~~that is legal tender~~; […] (21) 'reserve assets' means the basket of ~~fiat~~ **official** currencies **of countries** ~~that are legal tender~~, commodities or crypto-	**Article 3(1) point 1 and (4)** '(1) "Distributed Ledger Technology" or "DLT" a technology ~~that supports the distributed recording of encrypted data~~ **that refers to the protocols and supporting infrastructure that enable computers in different locations to propose, validate, and immutably synchronize records over a network [they] create**." **Rapporteur Justification** The definition of DLT in Art. 3 Para. 1 (1) MiCA does not match the general understanding of DLT. The definition in MiCA does not cover existing DLT-based crypto values, such as Ethereum, because these crypto values are not encrypted. If MiCA is restricted to DLT, at least one DLT definition should be used which better reflects the general understanding of DLT; in

backing the value of an asset-referenced tokens, or the investment of such assets;'	assets, backing the value of an asset-referenced tokens, or the investment of such assets; **ECB Explanation** It is not appropriate to make reference in a Union legal text to 'fiat currencies which are legal tender'. Rather, reference should be made to 'currencies' or 'official currencies'. See paragraph [2.1.5] of the ECB Opinion.	particular, encryption ("encrypted") should not be used in the definition. (4) 'electronic money token' or 'e-money token' means a type of crypto-asset the main purpose of which is to be used as a ~~means of exchange~~ **means of payment** and that purports to maintain a stable value by referring to the value of a fiat currency that is legal tender; […] (5) "Utility token", a **fungible** crypto-asset that is intended to provide digital access to a product or services, is available via DLT and is only accepted by the issuer of this token."
Article 18(4) **'4. The EBA, ESMA, the ECB and, where applicable, a central bank as referred to in paragraph 3 shall, within 2 months after having received the draft decision and the application file, issue a non-binding opinion on the application and transmit their non-binding opinions to the competent authority concerned. That competent authority shall duly consider those non-binding opinions and the observations and comments of the applicant issuer.'**	**Article 18(4)** '4. The EBA, ESMA, the ECB and, where applicable, a central bank as referred to in paragraph 3 shall, within 2 months after having received the draft decision and the application file, issue a non-binding opinion on the application and transmit their non-binding opinions to the competent authority concerned**, except that such opinions issued by the ECB and the national central banks shall be binding as regards the conduct of monetary policy, and the promotion of the smooth operation of payment systems**. That competent authority shall duly consider those non-binding opinions and the observations and comments of the applicant issuer.' **ECB Explanation** In view of the exclusive competence of the ECB and the Eurosystem for the conduct of the monetary policy of the Union, and the promotion of the smooth functioning of payment systems, under the Treaty, and the powers of the national central banks of the Member States which have not adopted the euro in the field of monetary policy according to national law, the competent authority should only refuse an authorisation on monetary policy and payment system grounds where acting in accordance with the opinion of the ECB or the national central banks issuing the relevant Union currencies. See the explanation to Amendment [3] above.	**Article 18(4)** '4. The EBA, ESMA, the ECB and, where applicable, a central bank as referred to in paragraph 3 shall, within 2 months after having received the draft decision and the application file, issue a**[n]** ~~non-binding~~ opinion on the application and transmit their ~~non-binding~~ opinions to the competent authority concerned. **The statements, with the exception of those the European Central Bank and of the central banks of the Member States on the implementation of monetary policy and ensuring secure processing of payment transactions, are non-binding.** ~~That~~ **The competent** authority shall duly consider those non-binding opinions and the observations and comments of the applicant issuer. **If the ECB's opinion is negative due to monetary policy considerations, the competent authority rejects the application for approval and informs the issuer making the application of the decision**' **Rapporteur Justification** Asset-referenced tokens can reach market volumes that can affect the currency security of the euro zone. This must be taken into account by correspondingly involving the European Central Bank in the form of a mandatory positive attestation.

Article 19 **1.Competent authorities shall, within one month after having received the non-binding opinion referred to in Article 18(4), take a fully reasoned decision granting or refusing authorization to the applicant issuer and, and, within 5 working days, notify that decision to applicant issuers. Where an applicant issuer is authorized, its crypto-asset white paper shall be deemed to be approved.** **2.Competent authorities shall refuse authorization where there are objective and demonstrable grounds for believing that:** **(a) the management body of the applicant issuer may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market;** **(b) the applicant issuer fails to meet or is likely to fail to meet any of the requirements of this Title;** **(c) the applicant issuer's business model may pose a serious threat to financial stability, monetary policy transmission or monetary sovereignty.** **[….]**	**Article 19** 1.Competent authorities shall, within one month after having received the non-binding opinion referred to in Article 18(4), take a fully reasoned decision granting or refusing authorization to the applicant issuer and, and, within 5 working days, notify that decision to applicant issuers. Where an applicant issuer is authorized, its crypto-asset white paper shall be deemed to be approved. 2.Competent authorities shall refuse authorization where there are objective and demonstrable grounds for believing that: (a) the management body of the applicant issuer may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market; (b) the applicant issuer fails to meet or is likely to fail to meet any of the requirements of this Title; (c) the applicant issuer's business model may pose a serious threat to financial stability, monetary policy transmission or monetary sovereignty**; provided, however, that the competent authority shall act in accordance with the opinion of the ECB or the national central bank of issue of the relevant Union currency as regards the conduct of monetary policy and the promotion of the smooth operation of payment systems.** […] **ECB Explanation** In view of the exclusive competence of the ECB and the Eurosystem for the conduct of the monetary policy of the Union and the promotion of the smooth functioning of payment systems, under the Treaty, and the powers of the national central banks of the Member States which have not adopted the euro in the field of monetary policy according to national law, the competent authority should only refuse authorisation on monetary policy grounds or the smooth operation of payment systems where acting in accordance with the opinion of the ECB	**Article 19** 1**.** Competent authorities shall, within one month after having received the ~~non~~-binding opinion referred to in Article 18(4), take a fully reasoned decision granting or refusing authorization to the applicant issuer and, and, within 5 working days, notify that decision to applicant issuers. Where an applicant issuer is authorized, its crypto-asset white paper shall be deemed to be approved.

	or the national central banks issuing the relevant Union currencies. See the explanation to Amendment [4] above.	
Article 21(3)(b) **3 […]** **(b) take any appropriate corrective measures to ensure financial stability.**	**Article 21(3)(b)** 3 […] (b) take any appropriate corrective measures to ensure financial stability **and the proper conduct of monetary policy and the promotion of the smooth operation of payment systems, after having requested and obtained a non-binding opinion from the ECB and/or the relevant central banks of Member States the currency of which is not the euro, provided, however, that the competent authorities shall act in accordance with such opinions as regards the conduct of monetary policy and the promotion of the smooth operation of payment systems.'** **ECB Explanation** The ECB should be consulted and deliver a non-binding opinion on any corrective measures to ensure financial stability, in view of the ESCB's task under Article 127(5) of the Treaty to contribute to the smooth conduct of policies pursued by the competent authorities relating to the stability of the financial system. The relevant non-euro central banks should also be consulted on such measures insofar as relevant to their financial stability mandates under applicable national laws. In view of the exclusive competence of the ECB for the conduct of the monetary policy of the Union, and the promotion of the smooth functioning of payment systems, the competent authorities should also take any appropriate measures to ensure the proper conduct of monetary policy and the promotion of the smooth operation of payment systems, and should act in accordance with the ECB's and the relevant central banks' opinions on these particular aspects.	**None**
Article 30(12) **'12. The EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards specifying the**	**Article 30(12)** '12. The EBA, in close cooperation with ESMA **and the ECSB**, shall develop draft regulatory technical standards specifying the minimum content of the governance arrangements on: […].'	**None**

minimum content of the governance arrangements on: […].'	**Explanation ECB** In view of the ECB's strong interest in the governance arrangements relating to the issuers of tokens having particular regard to the close link between the provisions of the proposed regulation and the competences of the ECB and the ESCB under the Treaty, the ECB believes that a direct involvement in the preparation of the technical standards would be necessary. See paragraphs [2.2.3 and 2.2.4] of the ECB Opinion.	
Article 31, new (3a) and (4)	**Article 31, new (3a) and (4)** **'3a. Without prejudice to the provisions under paragraph 3, issuers of asset-referenced tokens shall conduct, on a regular basis, stress testing that shall take into account severe but plausible financial (such as interest rate shocks stress scenarios, and nonfinancial such as operational risk) stress scenarios. Based on the outcome of such stress tests, the competent authorities of the home Member States may require issuers of asset-referenced tokens to hold an amount of own funds which is above 20 % higher than the amount resulting from the application of paragraph 1, point (b) in certain circumstances given the risk outlook and stress test results.** 4. The EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards further specifying: (a) the methodology for the calculation of the own funds set out in paragraph 1; (b) the procedure and timeframe for an issuer of significant asset-referenced tokens to adjust to higher own funds requirements as set out in paragraph 3; (c) the criteria for requiring higher own funds or for allowing lower own funds, as set out in paragraph 3;. **(d) the common reference parameters of the stress test scenarios to be included in the stress tests in accordance with paragraph 3a. The draft regulatory technical standards should be updated periodically taking into account the latest market developments.'**	**Article 31(1) point b a (new)** **(b a) a quarter of the fixed overhead costs of the previous year, which are reviewed annually and calculated in accordance with Article 60(6) of this Regulation.** **Rapporteur Justification** The calculation basis for the capital requirements for the issuers of ART should be comparable with those for other market participants in order to ensure a level playing field. This is not the case for the 2% mentioned in the draft regulation (or 3% for significant ART). One possibility would be to transfer the rules for determining capital requirements for investment firms that are subject to the CRR to ART issuers as well: Such investment firms have to maintain 25% of the fixed overheads of the previous year (Art. 97 CRR).

‘4. The EBA, in close cooperation with ESMA, shall develop draft regulatory technical standards further specifying: (a) the methodology for the calculation of the own funds set out in paragraph 1; (b) the procedure and timeframe for an issuer of significant asset-referenced tokens to adjust to higher own funds requirements as set out in paragraph 3; (c) the criteria for requiring higher own funds or for allowing lower own funds, as set out in paragraph 3.	**ECB Explanation** From a financial stability perspective, revised stress testing requirements would be helpful. See paragraphs [3.2.3 and 3.2.4] of the ECB Opinion.	
Article 33(1) **‘1. Issuers of asset-referenced tokens shall establish, maintain and implement custody policies, procedures and contractual arrangements that ensure at all times that: (a) the reserve assets are segregated from the issuers’ own assets; […]’**	**Article 33(1) new point (e)** ‘1. Issuers of asset-referenced tokens shall establish, maintain and implement custody policies, procedures and contractual arrangements that ensure at all times that: (a) the reserve assets are segregated from the issuers’ own assets; […]’ **(e) concentration risks in the custody of reserve assets are avoided.’** **ECB Explanation** From a financial stability perspective, custody policies of issuers of asset-referenced tokens should also ensure the prevention of concentration risks. See paragraph [3.2.5] of the ECB Opinion.	**None**

Article 34(1) and (4)	**Article 34(1) and (4)**	**None**
'1. Issuers of asset-referenced tokens that invest a part of the reserve assets shall invest those reserve assets only in highly liquid financial instruments with minimal market and credit risk. The investments shall be capable of being liquidated rapidly with minimal adverse price effect. […]	'1. Issuers of asset-referenced tokens that invest a part of the reserve assets shall invest those reserve assets only in highly liquid financial instruments with minimal market and credit risk. The investments shall be capable of being liquidated rapidly with minimal adverse price effect. […]	
4.The EBA shall, after consulting ESMA and the European System of Central Banks, develop draft regulatory technical standards specifying the financial instruments that can be considered highly liquid and bearing minimal credit and market risk as referred to in paragraph 1. When specifying the financial instruments referred to in paragraph 1, the EBA shall take into account: (a) the various types of reserve assets that can back an asset-referenced token; […].	4.The EBA shall, after consulting ESMA and the European System of Central Banks, develop draft regulatory technical standards specifying the financial instruments that can be considered highly liquid and bearing minimal credit and market risk as referred to in paragraph 1. When specifying the financial instruments referred to in paragraph 1, the EBA shall take into account: (a) the various types of reserve assets that can back an asset-referenced token; […].	
	(d) liquidity requirements establishing which percentage of the reserve assets should be comprised of daily maturing assets, reverse repurchase agreements which are able to be terminated by giving one working day's prior notice or cash which is able to be withdrawn by giving one working day's prior notice;	
	(e) liquidity requirements establishing which percentage of the reserve assets should be comprised of weekly maturing assets, reverse repurchase agreements which are able to be terminated by giving five working days' prior notice, or cash which is able to be withdrawn by giving five working days' prior notice;	

	(f) concentration requirements preventing the issuer from investing more than a certain percentage of assets issued by a single body[;] **(g) concentration requirements preventing the issuer from keeping in custody more than a certain percentage of crypto-assets or assets with crypto-asset service providers or credit institutions which belong to the same group, as defined in Article 2(11) of Directive 2013/34/EU of the European Parliament and of the Council(*).** **(*) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).'** **ECB Explanation** From a financial stability standpoint, rigorous liquidity requirements for issuers of asset-referenced and e-money tokens issuers are critical to enable them to withstand liquidity strains and minimize the risks to financial stability. Specifically, stablecoin arrangements and their reserve assets have similarities to money market funds. In this respect, Regulation (EU) 2017/1131 requires money market funds to hold significant liquidity reserves for the case of abrupt outflow shocks when they promise stable returns to investors. Such buffers, where combined with sufficiently conservative investment requirements to be developed in the regulatory technical standards drafted by the EBA, as well as stringent concentration requirements, could allow the reserve assets of stablecoins to withstand severe outflow scenarios. See paragraph [3.2.4] of the ECB Opinion.	

Article 35	**New Article 35 replaced in its entirety as follows:**	**None**
‘1. Issuers of asset-referenced tokens shall establish, maintain and implement clear and detailed policies and procedures on the rights granted to holders of asset-referenced tokens, including any direct claim or redemption rights on the issuer of those asset-referenced tokens or on the reserve assets. 2. Where holders of asset-referenced tokens are granted rights as referred to in paragraph 1, issuers of asset-referenced tokens shall establish a policy setting out: (a) the conditions, including thresholds, periods and timeframes, for holders of asset-referenced tokens to exercise those rights; (b) the mechanisms and procedures to ensure the redemption of the asset-referenced tokens, including in stressed market circumstances, in case of an orderly wind-down of the issuer of asset-referenced tokens as referred to in Article 42, or in case of a cessation of activities by such issuer; (c) the valuation, or the principles of valuation, of the asset-referenced tokens and of the reserve assets when those rights are exercised by the holder of asset-referenced tokens; (d) the settlement conditions when those rights are exercised; (e) the fees applied by the issuers of asset-referenced tokens when the holders exercise those rights. The fees referred to in point (e) shall be proportionate and commensurate with the actual costs incurred by the issuers of asset-referenced tokens. 3. Where issuers of asset-referenced tokens do not grant rights as referred to in paragraph 1 to all the holders of asset-referenced tokens, the detailed policies and procedures shall specify the natural or legal persons that are provided with such rights. The detailed policies and procedures shall also specify the conditions for exercising such rights and the obligations imposed on those persons. Issuers of asset-referenced tokens shall establish and maintain appropriate contractual arrangements with those natural or legal persons who are granted such rights. Those contractual arrangements shall precisely set out the roles, responsibilities, rights and obligations of the issuers of asset-referenced tokens and each of those natural or legal persons. A contractual	**1. Holders of asset-referenced tokens shall be provided with a claim on the issuer of such asset-referenced tokens or on the reserve assets. Any asset-referenced token that does not provide all holders with a claim shall be prohibited. 2. Issuers of such asset-referenced tokens shall issue asset-referenced tokens at market value and on the receipt of funds within the meaning of Article 4(25) of Directive (EU) 2015/2366.** **3. Upon request by the holder of asset-referenced tokens, the respective issuer must redeem, at any moment and at market value, the monetary value of the asset-referenced tokens held, either in cash or by credit transfer to such holder of asset-referenced tokens. 4. The issuer shall establish and maintain contractual arrangements to ensure that the proceeds of the reserve assets are paid to the holders of asset-referenced tokens, where the issuer decides to stop operating or where it has been placed under an orderly wind-down, or when its authorization has been withdrawn. 5. Issuers of asset-referenced tokens shall clearly state the conditions of redemption, including any fees relating thereto, in the crypto-asset white paper as referred to in Article 46. 6. Redemption may be subject to a fee only if stated in the crypto-asset white paper. Any such fee shall be proportionate to and commensurate with the actual costs incurred by issuers of asset-referenced tokens. 7. Where issuers of asset-referenced tokens do not fulfil legitimate redemption requests from holders of asset-referenced tokens within the time period specified in the crypto-asset white paper, which period shall not exceed 30 days, the obligation set out in paragraph 3 applies to any of the following third party entities that have entered into contractual arrangements with issuers of asset-referenced tokens: (a) entities ensuring the safeguarding of funds received by issuers of asset-referenced tokens in exchange for asset-referenced tokens in accordance with Article 7 of Directive 2009/110/EC; (b) crypto-asset service providers**	

arrangement with cross-jurisdictional implications shall provide for an unambiguous choice of law. 4. Issuers of asset-referenced tokens that do not grant rights as referred to in paragraph 1 to all the holders of such asset-referenced tokens shall put in place mechanisms to ensure the liquidity of the asset-referenced tokens. For that purpose, they shall establish and maintain written agreements with crypto-asset service providers authorized for the crypto-asset service referred to in Article 3(1) point (12). The issuer of asset-referenced tokens shall ensure that a sufficient number of crypto-asset service providers are required to post firm quotes at competitive prices on a regular and predictable basis. Where the market value of asset-referenced tokens varies significantly from the value of the reference assets or the reserve assets, the holders of asset-referenced tokens shall have the right to redeem the crypto-assets from the issuer of crypto-assets directly. In that case, any fee applied for such redemption shall be proportionate and commensurate with the actual costs incurred by the issuer of asset-referenced tokens. The issuer shall establish and maintain contractual arrangements to ensure that the proceeds of the reserve assets are paid to the holders of asset-referenced tokens, where the issuer decides to stop operating or where it has been placed under an orderly wind-down, or when its authorization has been withdrawn. 5. The EBA shall, in close cooperation with ESMA, develop draft regulatory technical standards specifying: (a) the obligations imposed on the crypto-asset service providers ensuring the liquidity of asset-referenced tokens as set out in the first subparagraph of paragraph 4; (b) the variations of value triggering a direct right of redemption from the issuer of asset-referenced tokens as set out in the second subparagraph of paragraph 4, and the conditions for exercising such a right. EBA shall submit those draft regulatory technical standards to the Commission by ... [please insert 12 months after the date of entry into force of this Regulation]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	**authorized to provide the crypto-asset services referred to in Article 3(1) point (12) of providing liquidity or custodial services in relation to the asset-referenced tokens; and (c) any natural or legal person that owns or is the controlling shareholder of the issuer of asset reference tokens. 8. The EBA shall, in close cooperation with ESMA, develop draft regulatory technical standards specifying any potential exemptions from the obligations set out in this article where asset-referenced tokens may only be used in a limited way. EBA shall submit those draft regulatory technical standards to the Commission by ... [please insert 12 months after the date of entry into force of this Regulation]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.'** **ECB Explanation** To the extent that asset-referenced and e-money tokens can be used to fulfil a payment function, they should to the extent possible be subject to equivalent requirements in order to avoid the risk of regulatory arbitrage between the respective regimes. Thus, all issuers of asset-referenced tokens should at a minimum grant end-users a direct claim on the issuer or on the reserve assets and redemption rights at market value, as well as make end-users aware of any involved risks through appropriate disclosures. EBA should be required to issue a delegated act to guide the calculation of the market value and to provide potential exemptions for asset-referenced tokens that can be used only in a limited way as a means of payment. See paragraph [2.1.4] of the ECB Opinion.	

Article 37(2) **Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in an issuer of asset-referenced tokens (the 'proposed vendor') shall first notify the competent authority in writing thereof, indicating the size of such holding. Such a person shall likewise notify the competent authority where it has taken a decision to reduce a qualifying holding so that the** **proportion of the voting rights or of the capital held would fall below 10 %, 20 %, 30 % or 50 % or so that the issuer of asset-referenced tokens would cease to be that person's subsidiary.**		**Article 37(2)** Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in an issuer of asset-referenced tokens (the 'proposed vendor') shall first notify the competent authority in writing thereof, indicating the size of such holding. Such a person shall likewise notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below ~~10 %,~~ 20 %, 30 % or 50 % or so that the issuer of asset-referenced tokens would cease to be that person's subsidiary. **Rapporteur Justification** The threshold of 10% for the takeover of asset-referenced tokens from the issuer seems too low. The acquisition of ART issuers follows the rules in MiFID II and EMD2. In PSD2 (Art. 6 (1)), EMD (Art. 3 (3)), MiFIDII (Art. 11 (1)), however, a qualified participation is only available from 20%. MiCA should not deviate from the regulations mentioned.
Article 39 **'1. The EBA shall classify asset-referenced tokens as significant asset-referenced tokens on the basis of the following criteria, as specified in accordance with paragraph 6 and where at least three of the following criteria are met: […].** **2. Competent authorities that authorized an issuer of asset-referenced tokens in accordance with Article 19 shall**	**Article 39** '1. The EBA, **after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** shall classify asset-referenced tokens as significant asset-referenced tokens on the basis of the following criteria, as specified in accordance with paragraph 6 and where at least three of the following criteria are met: […]	**None**

provide the EBA with information on the criteria referred to in paragraph 1 and specified in accordance with paragraph 6 on at least a yearly basis.	**(g) the same legal entity or related group entities issue several e-money tokens, asset-referenced tokens and provide crypto-asset provider services.**	
3. Where the EBA is of the opinion that asset-referenced tokens meet the criteria referred to in paragraph 1, as specified in accordance with paragraph 6, the EBA shall prepare a draft decision to that effect and notify that draft decision to the issuers of those asset-referenced tokens and the competent authority of the issuer's home Member State. The EBA shall give issuers of such asset-referenced tokens and their competent authorities the opportunity to provide observations and comments in writing prior the adoption of its final decision. The EBA shall duly consider those observations and comments.	2. Competent authorities that authorized an issuer of asset-referenced tokens in accordance with Article 19 shall provide the EBA **and the ECB and the relevant central banks of Member States whose currency is not the euro** with information on the criteria referred to in paragraph 1 and specified in accordance with paragraph 6 on at least a yearly basis.	
4. The EBA shall take its final decision on whether an asset-referenced token is a significant asset-referenced token within three months after the notification referred to in paragraph 3 and immediately notify the issuers of such asset-referenced tokens and their competent authorities thereof. […] 6. The Commission shall be empowered to adopt delegated acts in accordance with Article 121 to further specify the criteria set out in paragraph 1 for an asset-referenced token to be deemed significant and determine: […] (c) the content and format of information provided by competent authorities to EBA under paragraph 2. […]'	3. Where the EBA, **after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** is of the opinion that asset-referenced tokens meet the criteria referred to in paragraph 1, as specified in accordance with paragraph 6, the EBA shall prepare a draft decision to that effect and notify that draft decision to the issuers of those asset-referenced tokens and the competent authority of the issuer's home Member State. The EBA shall give issuers of such asset-referenced tokens and their competent authorities the opportunity to provide observations and comments in writing prior the adoption of its final decision. The EBA**, after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** shall duly consider those observations and comments.	
	4. The EBA shall take its final decision on whether an asset-referenced token is a significant asset-referenced token within three months after the notification referred to in paragraph 3 and immediately notify the issuers of such asset-referenced tokens and their competent authorities thereof. **The EBA may also subject the issuer of a significant asset-referenced token to the authorization requirements set out in Article 43(1).**	

	6. The Commission shall be empowered to adopt, **after consultation of the ECB,** delegated acts in accordance with Article 121 to further specify the criteria set out in paragraph 1 for an asset-referenced token to be deemed significant and determine: […] (c) the content and format of information provided by competent authorities to EBA**, the ECB and the relevant central banks of Member States whose currency is not the euro** under paragraph 2. […]'' **ECB Explanation** In view of the potential implications of significant asset-referenced tokens for the conduct of monetary policy, and the smooth operation of payment systems, a direct involvement by the ECB, and, when the token can have an impact on the same fields in Member States whose currency is not the euro, the relevant central bank in the assessment of whether an asset-referenced token is significant would be necessary. Moreover, an entity may also be significant when considering its combined activities relating to the issuance of e-money or asset reference tokens as well as the provision of crypto-asset services. In addition, in the case of significant asset-referenced tokens that become widely used for payments in the Union, the EBA should be able to subject the issuer of such significant asset-referenced tokens to the authorisation requirements provided for issuers of e-money tokens. See paragraph [2.2.4 and section 3.1] of the ECB Opinion.	
Article 40	**Article 40 – similar changes as in Article 39**	**None**

Article 41(3) and (4)	**Article 41(3) and (4) and new (7)**	**None**
'3. Issuers of significant asset-referenced tokens shall assess and monitor the liquidity needs to meet redemption requests or the exercise of rights, as referred to in Article 34, by holders of asset-referenced tokens. […]	'3. Issuers of significant asset-referenced tokens shall assess and monitor the liquidity needs to meet redemption requests or the exercise of rights, as referred to in Article 34, by holders of asset-referenced tokens. […]	
	Issuers of significant asset-referenced tokens shall also conduct liquidity stress testing, on a regular basis, and depending on the outcome of such tests, the EBA may decide to strengthen liquidity risk requirements. Where an issuer of significant asset-referenced tokens offers two or more categories of crypto-asset tokens and/or provides crypto-asset services, these stress tests shall cover all of these activities in a comprehensive and holistic manner.'	
'4. The percentage referred to in Article 31(1), point (b), shall be set at 3% of the average amount of the reserve assets for issuers of significant asset-referenced tokens. […]	'4. The percentage referred to in Article 31(1), point (b), shall be set at 3% of the average amount of the reserve assets for issuers of significant asset-referenced tokens. **In addition, issuers of significant asset-referenced tokens shall conduct, on a regular basis, stress testing that shall take into account severe but plausible financial (such as interest rate shocks) stress scenarios and non-financial (such as operational risk) stress scenarios. Where an issuer of significant asset-referenced tokens offers two or more categories of crypto-asset tokens and/or provides crypto-asset services, these stress tests shall cover all of these activities in a comprehensive and holistic manner. Based on the outcome of such stress tests, the EBA where relevant, may impose additional own funds requirements on top of the 3% requirement. Moreover, issuers of significant asset-referenced tokens shall also conduct liquidity stress testing, on a regular basis, and depending on the outcome of such tests, the EBA may decide to strengthen liquidity risk requirements.** […]	

	'7. The EBA, in close cooperation with ESMA, shall issue guidelines with a view to establishing the common reference parameters of the stress test scenarios to be included in the stress tests in accordance with paragraphs 3 and 4. The guidelines should be updated periodically taking into account the latest market developments.' **ECB Explanation** From the perspectives of the smooth operation of payment systems and the stability of the financial system, it is suggested to introduce enhanced stress testing requirements, mandatory liquidity stress testing, binding liquidity and concentration requirements. In addition, the EBA should issue guidelines establishing common reference parameters for stress testing for issuers of significant asset-referenced tokens and e-money tokens. See paragraphs [3.2.3 and 3.2.4] of the ECB Opinion.	
		Article 43 new paragraph (1 a) (1 a) The decision on the approval of e-money tokens lies with the European Central Bank. The ECB will refuse approval if it cannot rule out a threat to financial stability or currency sovereignty in the euro zone due to the business model, the expected market volume or other disadvantageous circumstances of the e-money token applied for. The ECB will make its decision within three months of receipt of the complete application for admission and will inform the issuer making the application of the decision within five working days.

		Rapporteur Justification E-money tokens can reach market volumes that can affect the currency security of the euro zone. This has to be taken into account through the appropriate decision-making authority of the European Central Bank.
Article 49 **'Funds received by issuers of e-money tokens in exchange of e-money tokens and that are invested in secure, low-risk assets in accordance with Article 7(2) of Directive 2009/110/EC shall be invested in assets denominated in the same currency as the one referenced by the e-money token.'**	**Article 49** 'Funds received by issuers of e-money tokens in exchange of e-money tokens and that are invested in **highly liquid financial instruments with minimal market and credit risks in accordance with Article 34(4) of this Regulation, instead of Article 7(2) of Directive 2009/110/EC,** secure, low-risk assets in accordance with Article 7(2) of Directive 2009/110/EC shall be invested in assets denominated in the same currency as the one referenced by the e-money token.' **ECB Explanation** From a financial stability standpoint, issuers of asset-referenced and e-money tokens should invest the funds received in exchange for their tokens in the same categories of highly liquid financial instruments with minimal market and credit risks to be specified in the draft regulatory technical standards to be adopted. Harmonisation in the investment requirements between asset-referenced and e-money tokens is necessary because both tokens pose a similar degree of risk, and it is therefore important that the same rules apply in the area of investment of reserve assets. See [paragraph 3.2.3] of the ECB Opinion.	**None**

Article 50	**Article 50**	**None**
'1. The EBA shall classify e-money tokens as significant e-money tokens on the basis of the criteria referred to in Article 39(1), as specified in accordance with Article 39(6), and where at least three of those criteria are met. 2. Competent authorities of the issuer's home Member State shall provide the EBA with information on the criteria referred to in Article 39(1) of this Article and specified in accordance with Article 39(6) on at least a yearly basis.	'1. The EBA**, after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** shall classify e-money tokens as significant e-money tokens on the basis of the criteria referred to in Article 39(1), as specified in accordance with Article 39(6), and where at least three of those criteria are met. 2. Competent authorities of the issuer's home Member State shall provide the EBA**, after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro** with information on the criteria referred to in Article 39(1) of this Article and specified in accordance with Article 39(6) on at least a yearly basis.	
3. Where the EBA is of the opinion that e-money tokens meet the criteria referred to in Article 39(1), as specified in accordance with Article 39(6), the EBA shall prepare a draft decision to that effect and notify that draft decision to the issuers of those e-money tokens and the competent authority of the issuer's home Member State. The EBA shall give issuers of such e-money tokens and their competent authorities the opportunity to provide observations and comments in writing prior the adoption of its final decision. The EBA shall duly consider those observations and comments.	3. Where the EBA**, after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** is of the opinion that e-money tokens meet the criteria referred to in Article 39(1), as specified in accordance with Article 39(6), the EBA shall prepare a draft decision to that effect and notify that draft decision to the issuers of those e-money tokens and the competent authority of the issuer's home Member State. The EBA shall give issuers of such e-money tokens and their competent authorities the opportunity to provide observations and comments in writing prior the adoption of its final decision. The EBA**, after consultation of the ECB and the relevant central banks of Member States whose currency is not the euro,** shall duly consider those observations and comments. **ECB Explanation** In view of the potential implications of significant e-money tokens for the conduct of monetary policy, and the smooth operation of payment systems, a direct involvement by the ECB	

	and, when the token can have an impact on the same fields in Member States whose currency is not the euro, the relevant central bank in the assessment of whether e-money tokens are significant would be necessary. See the explanation to Amendment [14] above.	
Article 51	**Article 51** **Introduction of same type of changes as in Article 50 i.e., powers and the relevant central banks of non-euro Member States.**	
Article 52	**Article 52** **Technical update to cross-referencing.**	**None**
		Article 61 new (9a) and new (9b) **(9 a) Services, insofar as they are obliged within the meaning of Directive 2015/849 / EU, have effective procedures in place for the prevention, detection and investigation of money laundering and terrorist financing in accordance with Directive 2015/849 / EU.** **(9b) Providers of crypto services that transfer crypto values for payment purposes must have internal control mechanisms and effective procedures for the full traceability of all crypto value transfers within the EEA as well as transfers of crypto values from the EEA to another region and vice versa in accordance with the provisions of the Regulation (EU) 2015/847.**

		Rapporteur Justification AML and CTF in connection with crypto assets is one of the core concerns of regulators, regulators and the financial industry worldwide. The added value of crypto results for the user from cross-border and digital use as a means of payment and exchange. In this regard, too, a level playing field must therefore be guaranteed between established payment service providers and new market participants in accordance with the stipulation "same regulations for equal risks".
Article 63(3) **'3. Crypto-asset service providers shall, promptly place any client's funds, with a central bank or a credit institution. Crypto-asset service providers shall take all necessary steps to ensure that the clients' funds held with a central bank or a credit institution are held in an account or accounts separately identifiable from any accounts used to hold funds belonging to the crypto-asset service provider.'**	**Article 63(3)** '3. Crypto-asset service providers shall, promptly place any client's funds, with a ~~central bank or a~~ credit institution **or, where the relevant eligibility criteria and conditions for opening an account are met, a central bank**. Crypto-asset service providers shall take all necessary steps to ensure that the clients' funds held with a ~~central bank or a~~ credit institution **or, where the relevant eligibility criteria and conditions for opening an account are met, a central bank**, are held in an account or accounts separately identifiable from any accounts used to hold funds belonging to the crypto-asset service provider.' **ECB Explanation** Access to central bank accounts for credit institutions in the context of Eurosystem monetary policy operations, or for credit and financial institutions in the context of the TARGET2 payment system operations, is based on eligibility criteria and conditions under the applicable ECB Guidelines. Similar requirements may apply for ESCB central banks of Member States which have not adopted the euro as their currency. See paragraph [2.1.6] of the ECB Opinion.	**None**

		New Article 66 a Orderly handling of service providers The providers of crypto services draw up an appropriate plan to support the orderly processing of their activities in accordance with applicable national law. This plan must prove that the provider of crypto services is able to process the order in a manner that does not cause undue economic damage to the customer. **Rapporteur Justification** It is intended that issuers of asset-referenced tokens draw up an appropriate plan for an orderly settlement (see Art. 42). From a risk perspective, it appears necessary that this is also required of crypto value service providers.
		Article 74(2) (2) To sell crypto services directly or indirectly held qualified participation (hereinafter "interested seller"), informs the competent authority in writing beforehand, stating the scope of the participation concerned. The natural or legal person concerned also notifies the competent authority of their decision to reduce a qualified stake in such a way that their share of the voting rights or capital would fall below ~~10%,~~ 20%, 30% or 50% or the provider of crypto services would no longer be their subsidiary. **Rapporteur Justification** The acquisition of providers of crypto services follows the rules in MiFID II and EMD2. The qualified participation in MiCA starts at 10%. In PSD2 (Art. 6 (1)), EMD (Art. 3 (3)), MiFIDII (Art. 11 (1)), however, a qualified participation is only available from 20%. MiCA should not deviate from the regulations mentioned.

Article 82(1) and (4) **'1. […] Supervisory and investigative powers exercised in relation to e-money token issuers are without prejudice to powers granted to relevant competent authorities under national laws transposing Directive 2009/110/EC.** **4. Competent authorities shall exercise their functions and powers referred to in paragraphs 1 and 2 in any of the following ways:** **(a) directly;** **(b) in collaboration with other authorities; (c) under their responsibility by delegation to such authorities;** **(d) by application to the competent judicial authorities.'**	**Article 82(1) and (4)** '1. […] Supervisory and investigative powers exercised in relation to e-money token issuers are without prejudice to powers granted to relevant competent authorities under national laws transposing Directive 2009/110/EC**, as well as to the prudential supervisory powers granted to the ECB under Council Regulation (EU) 1024/2013(*) (*) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).** 4. Competent authorities shall exercise their functions and powers referred to in paragraphs 1 and 2 in any of the following ways: (a) directly; (b) in collaboration with other authorities; (c) under their responsibility by delegation to such authorities; (d) by application to the competent judicial authorities. **With respect to (a) and (b) above, supervisory powers exercised in relation to crypto-assets issuers and providers are without prejudice to the prudential supervisory tasks of the ECB with respect to significant credit institutions that are crypto-assets service providers and/or crypto-assets issuers.'**	**None**

	ECB Explanation The supervisory powers and arrangements in question would also need to take into account the ECB's prudential supervisory role as far as significant credit institutions are concerned. Inter alia, the NCAs should notify the ECB in cases where a significant credit institution issues a white paper, applies for an authorisation in order to provide one of the crypto-assets services or is in breach of the proposed regulation. See paragraph [3.3] of the ECB Opinion.	
Article 98	**Article 98** **Minor changes similar as in 50 and 51 above and to ensure that the EBA acts "without prejudice of the prudential supervisory competences of the ECB where relevant."**	**None**