



2024/1506

30.5.2024

COMMISSION DELEGATED REGULATION (EU) 2024/1506

of 22 February 2024

supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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⁽¹⁾, and in particular Article 43(11) thereof,

Whereas:

- (1) Pursuant to Article 56(1) of Regulation (EU) 2023/1114, the criteria set out in Article 43(1) of that Regulation for classifying asset-referenced tokens as significant asset-referenced tokens are to apply also for classification of e-money tokens as significant e-money tokens. Therefore, it is necessary to further specify the criteria referred to in Article 43(1), points (e) and (f), of Regulation (EU) 2023/1114 also in relation to e-money tokens.
- (2) To enable the European Banking Authority (EBA) to determine whether the activities of the issuer of the asset-referenced token or e-money token are significant on an international scale outside the Union, and whether asset-referenced tokens or e-money tokens or their issuers are to be considered to be interconnected with the financial system, it is necessary to distinguish between core and ancillary indicators for such determination. Core indicators should capture the most relevant elements of significant asset-referenced tokens or e-money tokens. Ancillary indicators should be assessed where the assessment of the core indicators by the EBA does not enable the EBA to determine conclusively that the criteria referred to in Article 43(1), points (e) and (f), of Regulation (EU) 2023/1114 have been fulfilled. The outcome of the significance assessment should be subject to a holistic assessment of both types of indicators.
- (3) As regards the assessment of the criterion of significance of the activities of the issuer on an international scale outside the Union, including the use of the asset-referenced token or e-money token for payments and remittances, as referred to in Article 43(1), point (e), of Regulation (EU) 2023/1114, the EBA should use core indicators relating to cross-border activities between the Union and third countries, the size of the token concerned, and the issuer's activities at global level.
- (4) Cross-border transactions, in particular those that are associated to uses as a means of exchange, are the transactions with the international dimension that are most likely to pose risks to financial stability, monetary policy transmission and monetary sovereignty of the Union. Those transactions also reflect the international activity of an issuer of an asset-referenced token or e-money token on international scale outside the Union in relation to their uses for payments and remittances. Therefore, the EBA should consider the indicators of the significance of the market share of value of cross-border transactions in an asset-referenced token or e-money token into and from the Union and the significance of the estimated market share of value of such transactions that are associated to uses of such tokens as a means of exchange. The indicator of the significance of the market share of value of cross-border transactions in an asset-referenced token or e-money token should be further divided in two separate sub-indicators relating to inflow transactions and outflow transactions, since the effects of each type of transaction on financial stability and monetary sovereignty can be different.

⁽¹⁾ OJ L 150, 9.6.2023, p. 40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.

- (5) To capture the non-cross border aspect of significance of an issuer's activities on international scale, the EBA should also consider the core indicators on the global market capitalisation of an asset-referenced token or an e-money token, and on the global market capitalisation of all asset-referenced tokens and e-money tokens issued by the issuer. The market capitalisation on an international scale of a token should be understood to include the same token issued outside the Union to distinguish that capitalisation from the market capitalisation referred to in Article 43(1), point (b), of Regulation (EU) 2023/1114.
- (6) As regards the assessment of the criterion of significance of the interconnectedness of asset-referenced tokens or e-money tokens or their issuers with the financial system, as referred to in Article 43(1), point (f), of Regulation (EU) 2023/1114, the indicators should capture direct and indirect interconnectedness of the tokens and their issuers with the financial system. Both a direct and an indirect interconnectedness could result in contagion effects in both directions, that is from issuers of asset-referenced tokens and e-money tokens to traditional financial system and vice versa. For that purpose, it is necessary to set out the core indicators of the significance of the share of non-deposit reserve assets that are financial instruments issued by financial institutions, and of the significance of the share of the issuer's asset holdings relative to the total supply of specific financial instruments. In addition, the following ancillary indicators should be set out: the ownership structure of the issuer of an asset-referenced token or an e-money token, the concentration of custody of the issuer's reserve assets, and portfolio overlap of the issuer's reserve assets with the reserve assets of issuers of other asset-referenced tokens and e-money tokens.
- (7) Assessing the significance of the share of non-deposit reserve assets that are financial instruments issued by financial institutions is key when assessing the issuer's interconnectedness with the financial system. That core indicator should measure direct interconnections with the financial sector via the issuer's reserve of assets. Distress in financial institutions the financial instruments of which are included in the reserve assets could affect the value of the reserve assets that back the token holders' claims on the issuer to redeem the token. When assessing that indicator, the EBA should consider the sub-indicators of the share of non-deposit reserve assets that are financial instruments, of the share of non-deposit reserve assets that are derivatives in case of asset-referenced tokens, or of the share of covered bonds in case of e-money tokens. The share of non-deposit reserve assets that are derivatives and the share of covered bonds are necessary as sub-indicators since, on the one hand, counterparties of derivatives might be credit institutions and therefore a margin call on them could have significant effects on the financial system, and, on the other hand, a fire sale of covered bonds by the issuer could negatively impact the liquidity of credit institutions.
- (8) The core indicator on the significance of the share of asset-referenced tokens or e-money tokens issuer's asset holdings relative to the total supply of the specific financial instruments, including units of an undertaking for collective investment in transferable securities and sovereign bonds, should capture indirect interconnections between, on the one hand, issuers of asset-referenced tokens and e-money tokens and, on the other hand, the financial system. Such indirect connections could affect the traditional financial system, in particular where the issuer of an asset-referenced token or an e-money token is forced to fire sell its asset holdings because of financial distress. That sell-off could drive down the value of those assets and affect financial institutions indirectly via a decrease of the value of the assets those financial institutions hold.
- (9) Issuers of asset-referenced tokens or e-money tokens can also be interconnected with the financial system through the ownership structure. That ancillary indicator should provide a complete view of the potential effects that financial distress could have in the financial system, not only from a purely financial stability risk perspective, but also in connection to reputational risks. Financial distress or critical events in the issuer of an asset-referenced token or e-money token could, via their link to the issuer through the ownership structure, have a significant effect in institutions that run other financial activities. When assessing that indicator, the EBA should focus on whether the issuer has a dispersed or concentrated ownership, whether natural or legal persons with qualifying holdings are financial institutions, and the complexity of the ownership structure.

- (10) An additional channel of interconnectedness between, on the one hand, the issuer of an asset-referenced token or e-money token, and, on the other hand, the financial system, can arise via the concentration of reserve assets in a small number of financial institutions. The higher the diversification of an issuer's reserve assets, the lower the potential contagion effects and financial stability risks of the issuer. Thus, allocating reserve assets in a low number of financial institutions or in a highly concentrated degree is an indication of higher interconnectedness with the financial system. Because of the specific relevance of interconnectedness that may arise from the concentration of deposits in credit institutions, it is appropriate to set two sub-indicators under the ancillary indicator of concentration of issuer's reserve assets in financial institutions. One sub-indicator should capture concentration of reserve assets in financial institutions, and another sub-indicator should cover only deposits in credit institutions.
- (11) It is necessary to capture the contagion mechanisms that could arise from cases where there are different issuers of asset-referenced tokens or e-money tokens holding similar assets. Such situation could have as a result that financial distress and the resulting sell-off in one issuer could have negative effects on other issuers. An ancillary indicator of a portfolio overlap of the issuer's reserve assets with the reserve assets of other issuers should therefore be set out,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'financial institution' means any of the following:
- (a) a credit institution;
 - (b) an investment firm;
 - (c) an electronic money institution;
 - (d) a payment institution;
 - (e) a UCITS management company;
 - (f) an alternative investment fund manager;
 - (g) an insurance undertaking as defined in Article 13, point (1), of Directive 2009/138/EC of the European Parliament and of the Council ⁽²⁾;
 - (h) a reinsurance undertaking as defined in Article 13, point (4), of Directive 2009/138/EC;
 - (i) an institution for occupational retirement provision as defined in Article 6, point (1), of Directive (EU) 2016/2341 of the European Parliament and of the Council ⁽³⁾;
- (2) 'relevant period' means the period referred to in Article 43(2), point (a), of Regulation (EU) 2023/1114, or the period referred to in Article 43(2), point (b), of that Regulation.

Article 2

Indicators for assessing significance on international scale

1. When assessing whether the criterion set out in Article 43(1), point (e), of Regulation (EU) 2023/1114 is fulfilled, the EBA shall assess all of the following core indicators:

⁽²⁾ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: <http://data.europa.eu/eli/dir/2009/138/oj>).

⁽³⁾ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37, ELI: <http://data.europa.eu/eli/dir/2016/2341/oj>).

- (a) the significance of the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union and from the Union;
- (b) the significance of the estimated market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union and from the Union that are associated to uses as a means of exchange;
- (c) the degree of market capitalisation on an international scale of an asset-referenced token or an e-money token on the last calendar day of the relevant period;
- (d) the degree of market capitalisation on an international scale of all asset-referenced tokens and e-money tokens issued by the issuer or issuers concerned on the last calendar day of the relevant period.

2. For the purposes of paragraph 1, point (a), the EBA shall consider all of the following sub-indicators:

- (a) the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens into the Union (inflow transactions);
- (b) the market share of value of cross-border transactions in asset-referenced tokens or e-money tokens from the Union (outflow transactions).

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in accordance with the following formula:

$$\frac{\text{the total aggregate value of transactions of which the payer is outside the Union and the payee is inside the Union in a given asset-referenced token or e-money token during the relevant period}}{\text{the total aggregate value of transactions of which the payer is outside the Union and the payee is inside the Union in all asset-referenced tokens and e-money tokens during the relevant period}}$$

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in accordance with the following formula:

$$\frac{\text{the total aggregate value of transactions of which the payer is within the Union and the payee is outside the Union in a given asset-referenced token or e-money token during the relevant period}}{\text{the total aggregate value of transactions of which the payer is within the Union and the payee is outside the Union in all asset-referenced tokens and e-money tokens during the relevant period}}$$

3. The EBA shall calculate the estimated market share referred to in paragraph 1, point (b), in accordance with the following formula:

$$\frac{\text{the estimated total aggregate value of cross-border transactions in a given asset-referenced token or e-money token into the Union and from the Union that are associated to its uses as a means of exchange during the relevant period}}{\text{the estimated total aggregate value of cross-border transactions in all asset-referenced tokens and e-money tokens into the Union and from the Union that are associated to their uses as a means of exchange during the relevant period}}$$

Article 3

Indicators for assessing interconnectedness with the financial system

1. When assessing whether the criterion set out in Article 43(1), point (f), of Regulation (EU) 2023/1114 is fulfilled, the EBA shall assess all of the following core indicators:

- (a) the significance of the share of non-deposit reserve assets of an asset-referenced token or an e-money token that are financial instruments issued by financial institutions;
- (b) the significance of the share of the issuer's asset holdings relative to the total supply of specific financial instruments.

2. For the purposes of paragraph 1, point (a), the EBA shall consider the following sub-indicators:

- (a) the share of non-deposit reserve assets of an asset-referenced token or an e-money token that are financial instruments issued by financial institutions;
- (b) in case of asset-referenced tokens, share of non-deposit reserve assets of an asset-referenced token that are derivatives; or
- (c) in case of e-money tokens, share of non-deposit reserve assets of an e-money token that are covered bonds.

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\frac{\text{the total value of financial instruments issued by financial institutions that are part of the reserve of assets of the asset-referenced token or e-money token}}{(\text{the total value of the reserve of assets of the asset-referenced token or e-money token}) - (\text{the total value of deposits in the reserve of assets of the asset-referenced token or e-money token})}$$

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\frac{\text{the total value of derivatives that are part of the reserve of assets of the asset-referenced token}}{(\text{the total value of the reserve of assets of the asset-referenced token}) - (\text{the total value of deposits in the reserve of assets of the asset-referenced token})}$$

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (c), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\frac{\text{the total value of covered bonds issued by credit institutions that are part of the reserve of assets of the e-money token}}{(\text{the total value of the reserve of assets of the e-money token}) - (\text{the total value of deposits in the reserve of assets of the e-money token})}$$

3. The EBA shall calculate the share of the issuer's asset holdings referred to in paragraph 1, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\frac{\text{the total value of holdings of the issuer of an asset-referenced token or an e-money token of a type of a financial instrument}}{\text{the total supply of that type of the financial instrument}}$$

4. Where the assessment of the core indicators referred to in paragraph 1 does not lead to a conclusive determination with regard to the interconnectedness criterion set out in of Article 43(1), point (f), of Regulation (EU) 2023/1114, the EBA shall assess all of the following ancillary indicators:

- (a) the ownership structure of the issuer of an asset-referenced token or an e-money token;
- (b) the degree of concentration of the reserve assets of the issuer of an asset-referenced token or an e-money token in financial institutions;
- (c) the degree of portfolio overlap of reserve assets of the issuer of an asset-referenced token or an e-money token with the reserve assets of other issuers of asset-referenced tokens and e-money tokens.

5. For the purposes of paragraph 4, point (a), the EBA shall consider all of the following:

- (a) whether the issuer has a dispersed or concentrated ownership structure;
- (b) whether a natural or legal person with a qualifying holding is a financial institution;
- (c) the complexity of the ownership structure.

6. For the purposes of paragraph 4, point (b), the EBA shall consider all of the following sub-indicators:

- (a) the concentration of the reserve assets of the issuer of an asset-referenced token or an e-money token in financial institutions;
- (b) the concentration of deposits held in credit institutions by the issuer of an asset-referenced token or an e-money token.

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (a), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\text{Concentration} = s_1^2 + s_2^2 + s_3^2 + \dots + s_n^2$$

where s_n = the share of reserve assets held in financial institutions n (expressed as a whole number).

The EBA shall calculate the sub-indicator referred to in the first subparagraph, point (b), in respect of the last calendar day of the relevant period in accordance with the following formula:

$$\text{Concentration} = c_1^2 + c_2^2 + c_3^2 + \dots + c_n^2$$

where c_n = the share of deposits held in credit institutions n (expressed as a whole number).

7. The EBA shall calculate the ancillary indicator referred to in paragraph 4, point (c), in respect of the last calendar day of the relevant period in accordance with the following formula:

the total value of the reserve assets of an asset-referenced token or an e-money token that are also held in the
reserve of assets of other issuers of asset-referenced tokens or e-money tokens

the total value of the reserve assets of the asset-referenced token or an e-money token

*Article 4***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 February 2024.

For the Commission
The President
Ursula VON DER LEYEN