



DIGITAL CURRENCIES
Governance Group

**ON THE MARKETS IN
CRYPTO-ASSETS (MICA)
REGULATION
(UPDATED)**

DCGG POSITION PAPER

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The **Digital Currencies Governance Group (DCGG)** represents some of the largest stablecoin issuers, wallet providers and crypto-asset service providers (CASPs) globally.

While EU citizens have chosen the tokens and/or services delivered by our members, we do not yet have a formal presence in the EU – despite being founded by EU citizens. Our members strongly believe that the EU has the unique power to establish a strong, risk-managed foundation for access to crypto assets (CAs).

To this end, DCGG identifies four issues in MiCA which we urge the European Institutions to consider and set a clear, proportionate and future-proof benchmark for crypto asset regulation globally.

ISSUE I: RESTRICTING REDEMPTION FEES AND RIGHTS REQUIREMENTS ON ARTs ARE INCOMPATIBLE WITH THE REDEMPTION PROCESS FOR COMMODITY-REFERENCED STABLECOINS, AND CONTRADICTS WITH THE TREATMENT OF OTHER INVESTMENT PRODUCTS

- The core business model of many ARTs issuers requires incurring a cost of securely issuing and managing such tokens, and therefore being compensated via a fee.
 - Furthermore, the ability to redeem certain ARTs depends on meeting specific criteria such as time or thresholds of tokens being held, because of the nature of the underlying assets.
- For example, commodity-referenced stablecoins are typically redeemed directly for the physical commodity, as such, a fee is necessary to cover costs related to the physical delivery of the referenced asset.
- DCGG is concerned that there is a risk that the text of the proposal could be interpreted to mean that issuers of ARTs should grant holders redemption rights near immediately and ensure the redemption of the ARTs at market value within a very limited period of time.
- Other more traditional financial products charge fees on the products and services they offer, which is consistent with the treatment of ARTs proposed by the EU Commission
- Prohibition of redemption fees goes against precedent established in previous legislation such as Article 23(1i) of the Alternative Investment Funds Managers Directive (AIFMD), which allows fees on AIFs to be set.
- Most investment funds charge a redemption fee for redeeming shares of a fund, and in this particular aspect, ARTs are not different as a product.
- Limiting this capability of issuers would disincentivise commodity-referenced token issuers from seeking to operate in the EU and limit choice for EU investors.

Solution:

So long as ARTs are used as an investment vehicle, DCGG supports the original text of the Commission proposal regarding redemption fees and rights and as the best way forward (Articles 35).

ISSUE II: MICA MIGHT NOT ALLOW FOR ANY FEES TO BE CHARGED FOR THE REDEMPTION OF E-MONEY TOKENS (EMTs)

- The original Commission MiCA proposal (Article 44) foresaw that redemption of EMTs or ARTs can be subject to a fee if stated in the white paper and if such a fee is proportionate with the costs incurred by the issuers of e-money tokens.
- Not allowing the charging of fees for redeeming EMTs opposes the provisions in the E-Money Directive. According to MiCA, EMT issues should seek authorisation under the E-Money Directive. The E-Money Directive (Article 11) provides that redemption may be subject to a fee if this is clearly stated in the contract and in specific cases:
 - where redemption is requested before the termination of the contract;
 - where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or
 - where redemption is requested more than one year after the date of termination of the contract.
- It is important to note that EMT issuers would incur servicing costs when redeeming e-money tokens and they should be able to charge a proportionate fee to cover the costs related to providing this service, as it is in traditional banking where this is the normal practice. It would be contradictory to not allow EMT issuers to impose such fees to their clients.
- It is also necessary to align both regimes (E-Money Directive and the rules for e-money tokens under MiCA) and the rights stemming from them, including when it comes to redemption fees, and allow for redemption fees to be charged in a proportionate manner, related to the related to the costs incurred by the service.

Solution:

Article 44 (6) of MiCA should be aligned with the requirements under Article 11 of the E-Money Directive, as it is under the Commission's proposal. It should not be amended.

ISSUE III: EMTs BASED ON NON-EU CURRENCIES MAY BE LIMITED IN THE EU

- We support a clarification that EMTs offered to the public in Member States or admitted to trading on a trading platform for crypto-assets may reference any global currency that is legal tender. (Article 43 (2a))

- Any restriction of USD-based (or other non-EUR currency) is inconsistent with rules applied to e-money institutions. These are not restricted from allowing users to both store and transact within the Single Currency Area from e-wallets which are not denominated in EUR.
- We understand that there is support in Council to the proposal that the use of non-EUR based EMTs should be limited, which is impractical and set a disproportionate reporting burden on CASPs.

Solution:

To be consistent with the treatment of e-money institutions, there should be no restrictions to transactions and issuance of non-EU currency based EMTs.