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DCGG Position Paper on the Simplification of MiCAR Regulatory Technical Standards and Guidelines

The Digital Currencies Governance Group (DCGG) is a trade association that represents digital assets issuers and service providers and artificial intelligence firms in the European Union, United Kingdom, Latin America and United Arab Emirates. Our mission is to facilitate an open dialogue and encourage communication between policymakers and industry experts to support the design of a sound and proportionate regulatory framework that ensures safety for all market participants.

The Markets in Crypto-Assets (MiCA) Regulation was introduced by the European Commission to provide a clear, innovation-friendly framework for cryptoassets in the EU, for a sector that in the EU, with the exception of some major international players, is still predominantly serviced by smaller innovative companies, e.g., SMEs.[1] However, the implementation process, particularly through the draft Regulatory Technical Standards (RTS) and Guidelines issued by the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA), has significantly exceeded this intent.

What began as a 166-page Level I text has now expanded into well over 2000 pages of Level II and III measures, and is still rising, often imposing existing technical financial market regulation, e.g. for MiFID/MifIR, Market Abuse or UCITS, almost 1:1 onto the crypto and digital assets markets, without taking into account the technological specificities and advantages of the blockchain technology. This rapid regulatory inflation imposes disproportionate burdens on stablecoin issuers (ARTs and EMTs) and Crypto-Asset Service Providers (CASPs), particularly on small and medium sized companies, risking a market divide into international players that have the resources to comply with the requirements, but for a large majority of smaller, often home-grown players, becoming a significant obstacle, thereby deterring investment in the European blockchain sector. Compared to more proportionate international regimes, the EU's approach risks stifling innovation and undermining its strategic goals for digital finance growth.

[1] Data from the Coincub Crypto Report 2025 indicates that as of late 2024, Europe had over 3,167 registered VASPs, as well as the following considerations

- MiCA multiplied compliance costs by factor 6, from €10K to over €60K
- Of the original 3,167 VASPs, 75% are projected to lose registration by June 2025 due to inability to meet MiCA requirements
- As of March 2025, only: 12 CASPs and 10 EMTs are officially licensed under MiCA (only around 100 are projected to be licensed by the end of 2025)
- Only 14% of crypto startups successfully opened a bank account without it later being closed. 50% of applications are outright rejected, and many others are closed arbitrarily.
- A high number of individual registrations indicates many small operators and startups, who are likely to be disproportionately affected by MiCA's more demanding compliance requirements.

DCGG welcomes and fully supports the EU's growing commitment to a better regulatory environment and the simplification and competitiveness objectives of the Omnibus legislative packages that have been proposed so far and are in the pipeline. We believe that the forthcoming expected digital finance regulatory framework fitness assessment is a unique moment also for the MiCA technical regulatory standards and guidelines implementation to be revisited and recalibrated. This position paper outlines key areas where technical standards as well as guidance should be adjusted to ensure proportionality, reduce compliance costs, and support the growth and innvation of Europe's cryptoasset ecosystem.

Issue I: Premature Delisting of Non-MiCA Licensed ARTs and EMTs Risks Legal Uncertainty, Market Liquidity Concerns and Consumer Harm

- On 17 January 2025, ESMA issued a statement on the provision of certain crypto-asset services in relation to "non-MiCA compliant" ARTs and EMTs. ESMA's interpretation, supported by the European Commission and the EBA, suggests that CASPs must delist or cease offering services in relation to all non-MiCA compliant ARTs and EMTs by Q1 2025. While we recognise the importance of ensuring market alignment with MiCA, the guidance provided lacks clear legal grounding in the Level I text and risks triggering unintended negative market consequences.
- In particular, there is no explicit provision in MiCA requiring the blanket delisting of ARTs or EMTs that have not yet been authorised under Titles III and IV, especially where no offer to EU customers has been made. Despite ESMA's reference to the European Commission Q&A, no detailed legal reasoning has been provided to substantiate the claim that the mere listing or facilitation of secondary market services constitutes an unlawful or non-compliant offer to the public under MiCA. This lack of clarity continues to cause considerable confusion among market participants.
- More concerning is the potential impact on EU consumers, market liquidity and diversity of choices available. The proposed timeline for delisting was extremely short and appears arbitrary, with no consideration given to the practical implications for liquidity, asset concentration, or market stability. EU investors could be forced to rapidly exit stablecoin positions, leading to significant market distortions, exposing investors to slippage, reduced quality of execution, and fewer viable alternatives; all while NCAs across the Union are still scaling up their supervisory capacity.
- This restrictive interpretation as well as the short timeframe unintentionally also disadvantages smaller European native stable issuers, that while having already obtained an issuing licence, still need to grow their market and distribution by

CASPs. It may also force CASPs to exit the EU market or limit service availability, thereby undermining the EU's ambitions to become an internationally competitive hub for digital finance. At a time when many global jurisdictions are taking a more proportionate approach to stablecoin regulation, such measures risk discouraging investment in Europe's crypto sector and creating a fragmented global regulatory landscape.

Recommendation: *To ensure legal certainty and a smooth transition to MiCA, ESMA and the EBA should clarify the legal basis for any required service restrictions and withdraw its statement or adopt a proportionate, risk-based timeline for compliance. CASPs should not be required to delist non-EU stablecoins in the absence of a clear offer to EU customers or an evident risk to investor protection. EU institutions should work collaboratively to develop a phased, practical approach that balances market integrity with broader consumer choice and financial stability.*

Issue II: Remaining Proportionality Gaps in EBA Transaction Monitoring and Reporting Technical and Implementing Standards

- While DCGG welcomes several key amendments made by the EBA, following the public consultation in 2024, to its final RTS and ITS on transaction monitoring and reporting under MiCA, particularly (i) the decision to exclude non-custodial wallet transactions from reporting requirements, (ii) limiting intra-EU reporting to transactions within the same currency area, and (iii) applying average rather than maximum value thresholds, important proportionality and clarity gaps remain unaddressed.
- The proposed inclusion of settlement transactions within the reporting perimeter continues to blur the distinction between economically meaningful payment transactions and non-payment related transfers, such as internal wallet rebalancing or settlement flows (which do not meet the definition of a retail payment). This risks distorting the required reporting dataset, introducing undue complexity and administrative burden for issuers, and undermining the intended monitoring of actual payment activity under Article 22(1)(d) MiCA. The exclusion of the counting of transactions only used for settlement purposes would also significantly reduce the likelihood of potential manipulation within the EMT market.
- Additionally, the requirement to report cross-border transactions as both a "send" and "receive" event remains problematic. This approach artificially inflates reported transaction volumes and creates a risk of double-counting, potentially triggering supervisory actions or MiCA's circulation thresholds (which would force issuers to stop token circulation in the EU), based on an inaccurate representation of market activity.

- The requirement to report transactions involving only one EU-based party also extends the geographical scope of MiCA beyond its intended territorial application. This overreach imposes disproportionate obligations on issuers and does not reflect the legislative intent to limit MiCA's reach to the EU and its currency areas.
- Overall, these reporting obligations are more onerous than those typically applied to payment systems, which are overseen under the PISA framework that focuses on safety and efficiency without imposing such detailed reporting requirements.

***Recommendation**: To ensure proportionality and legal clarity in line with MiCA's objectives, we recommend that the EBA (i) explicitly exclude settlement-only transactions from the scope of transaction reporting under Article 22(1)(d), (ii) avoid double-counting by requiring cross-border transactions to be reported only once, and (iii) align the geographical scope of reporting with MiCA's territorial limits by restricting reporting obligations to transactions where both counterparties are located within the EU and the same currency area to ensure proportionality. These targeted adjustments would significantly reduce administrative burden, mitigate market distortion risks, and support a more accurate and meaningful reporting framework.*

Issue III: Remaining Stablecoin Liquidity Requirements Risk Disproportionate Impact on EMT Issuers and the Functioning of the Market

- We welcome the EBA's decision to ease the initially proposed deposit concentration limits based on feedback to the consultation paper - a critical correction to ensure feasibility. The initial 10% and 5% per-bank caps would have forced issuers to spread reserves across 6–12 banks, which is an impractical requirement given the difficulties EMT issuers face in securing banking relationships. The revised thresholds of 25% per institution and a 30% aggregate cap, with reduced counterparties (3 global systemically important institutions (G-SIIs) or 4 large banks for significant EMTs; 2 for non-significant EMTs), better reflect market realities and align more closely with UCITS rules, which permit 20% per counterparty.
- However, key concerns remain unaddressed with respect to other elements of the liquidity framework for e-money token issuers in the EBA's final report. In particular, the final RTS maintain rigid reserve asset maturity requirements, requiring significant issuers to hold 40% of assets in instruments maturing within one day and 60% within five days. These thresholds are overly prescriptive, risking unnecessary concentration in short-term sovereign or repo instruments and creating vulnerabilities during periods of market stress. More flexible maturity

requirements and broader use of repo instruments would help issuers manage reserves in line with how customers actually redeem tokens.

- Additionally, the introduction of mandatory over-collateralisation (calculated based on a five-day observation window) exceeds the requirements established in MiCA Level I and duplicates existing prudential safeguards. EMT issuers are already required to maintain own funds equal to at least 2% (or 3% for significant issuers) of average reserves. Granting NCAs the discretion to impose additional buffers where needed would achieve the same objective without imposing a one-size-fits-all burden.
- Finally, the divergence in treatment between EMT issuers and comparable financial market participants (i.e., credit institutions or UCITS) raises questions of regulatory consistency. EMT issuers are subject to stricter liquidity and deposit requirements without evidence of higher risk compared to TradFi counterparts, undermining MiCA's aim to promote a level playing field and support innovation in financial services.

Recommendation: *EBA should revisit the calibration of reserve asset maturity thresholds to avoid unnecessary pressure on short-term markets and allow for greater issuer discretion in liquidity management. The over-collateralisation provision should be removed or made subject to NCA discretion. Continued alignment with existing regulatory frameworks, such as UCITS, would ensure the liquidity regime remains proportionate and fit-for-purpose.*

Issue IV: Disproportionate Reserve Asset Concentration Limits and Liquidity Requirements

- The EBA's final RTS on stablecoin reserves requirements has not addressed several core industry concerns around reserve asset requirements for EMT and ART issuers, particularly non-euro denominated stablecoins. The current framework imposes disproportionate and operationally unworkable limits that risk stifling market diversification and innovation in the EU.
- The proposed 35% limit on non-euro government bond holdings (e.g., U.S. Treasuries) is misaligned with the risk profile of these high-quality liquid assets. It discriminates against non-euro stablecoins, undermining the viability of EMTs pegged to other major currencies like, for example, USD, SEK, or DKK. We note that credit institutions are not subject to similar concentration limits under the LCR Delegated Regulation (Art. 8(1)(b)), creating an unjustified regulatory imbalance.
- The requirement for significant EMT issuers to hold 30–60% of reserves in bank deposits, while limiting government bond holdings to 35%, gives rise to uncertainty and makes it harder for issuers to manage reserves effectively. These deposit

thresholds also raise practical challenges, as many issuers struggle to secure banking partners, let alone maintain diversified relationships across multiple institutions. The use of UCITS-style concentration limits is inappropriate for EMT/ART issuers, whose payment-focused business models differ fundamentally from investment funds. A tailored regime should reflect this reality.

- Finally, the 10%/5% OTC derivative counterparty exposure limits are excessively tight given the operational challenges in accessing multiple counterparties, particularly for smaller or new market entrants. These thresholds should be raised to ensure feasibility without compromising systemic risk controls.

Recommendation: *To promote a competitive and resilient EU stablecoin marketplace, we urge the EBA to revisit its approach to reserve requirements, increase or remove concentration limits for non-euro assets to allow for portfolio diversification and increased asset stability, align treatment with credit institutions where applicable, and adjust derivative and deposit thresholds to reflect the realities of the cryptoasset sector.*

Issue V: Issuance Freeze Requirements During Own Funds Adjustment Risk Liquidity Disruption and Regulatory Imbalance

- While the EBA has now extended the compliance timeframe for significant ART and EMT issuers to adjust their own funds from 3 to 6 months following consultation feedback, the final RTS maintain a provision allowing for the suspension of new token issuance during the adjustment period. This provision, though well-intentioned from a prudential standpoint, introduces disproportionate operational and market risks that may undermine the regulatory objectives of financial stability and consumer protection.
- Issuers of significant ARTs and EMTs are already subject to elevated own fund requirements under MiCA Level I (increased from 2% to 3%). The EBA's additional prudential requirements further amplify this burden. While such measures are aimed at safeguarding token holders, restricting issuance during periods of one funds adjustment may unintentionally impair liquidity, disrupt trading dynamics, and jeopardise the stability of the token's peg, especially in cases of algorithmic stablecoins that rely on continuous issuance and redemption mechanisms to maintain value parity.
- In addition, the shorter adjustment timeline for significant issuers (despite their larger operational complexity) creates an uneven playing field compared to the one-year allowance granted to non-significant issuers.
- The EBA itself acknowledges the possible adverse effects of issuance restrictions on issuer stability and token holder confidence, yet its decision not to improve this requirement fails to fully account for those concerns. The RTS already require

issuers to submit detailed compliance plans and be subject to NCA supervision during the adjustment period, which constitute sufficient safeguards. Adding an issuance freeze may introduce more harm than benefit.

- Last but not least, the increased own funds requirement from 2% to 3% for significant EMT issuers is much more stringent than the prudential requirements typically applied to payment systems, which do not face such high own funds requirements.

Recommendation: *The EBA should reconsider the necessity of an issuance ban during own funds adjustment, particularly in light of the enhanced compliance obligations already imposed under the RTS. A more proportionate approach would be to rely on supervisory engagement, tailored risk assessments, and ongoing disclosure obligations to ensure that adjustments are progressing without compromising operational resilience or market functioning. Aligning treatment of significant and non-significant issuers with respect to adjustment timelines and operational continuity would further support the objective of a stable and competitive EU crypto-asset market.*

Issue VI: Lack of Sector-Specific Metrics in Sustainability Disclosures May Hinder Effective Implementation

- While ESMA's final guidelines on sustainability disclosures under MiCA introduce welcome proportionality measures, such as allowances for data limitations and classifying waste and natural resource use as optional, rather than mandatory reporting indicators for assessing climate impact, they do not adequately address concerns around the applicability of traditional sustainability frameworks to crypto-specific contexts. The continued alignment with broader EU reporting regimes such as the CSRD and SFDR risks imposing methodologies that were not designed for decentralised systems.
- This may result in disclosure obligations that are either unfeasible or misleading, particularly for CASPs and issuers relying on innovative or renewable-energy-based consensus mechanisms. Despite ESMA's efforts to facilitate less burdensome data collection, there remains a lack of clear, crypto-adapted guidance on how firms should interpret and apply key metrics, especially where standardised data is not readily available or relevant to their operations.
- Moreover, the framework risks introducing unintended biases by favouring certain consensus mechanisms over others, potentially distorting market dynamics and innovation trajectories within the EU. Given MiCA's technology-neutral stance, sustainability disclosures should avoid imposing indirect restrictions that could

lead to competitive disadvantages for emerging or energy-efficient models not fully captured by existing sustainability standards.

Recommendation: *ESMA should complement its proportionality approach with clearer, crypto-native methodologies tailored to the specific features of DLT and consensus mechanisms. Additional sector-specific guidance would enhance legal certainty, improve data quality, and ensure that sustainability disclosures support MiCA's goals without creating unintended barriers to innovation or competition in the EU digital finance landscape.*

Issue VII: Rigid Interpretation of Reverse Solicitation Undermines Cross-Border Access and Consumer Autonomy

- The Reverse Solicitation Guidelines (ESMA35-1872330276-1899), published by ESMA on 17 December 2024 under Article 61(3) of the MiCA Regulation, aim to ensure that only services requested on the client's exclusive initiative fall outside MiCA's scope and restricts direct solicitation of EU clients by third-country firms. While DCGG supports the principle of safeguarding EU consumers, the current guidelines risk exceeding MiCA's legal mandate and introducing disproportionate constraints on cross-border market engagement.
- ESMA's interpretation of "solicitation" is overly broad and may conflate neutral, educational, or security-driven communications with direct promotional activity. This could restrict the dissemination of public-interest content (notably including crime prevention campaigns and security updates) and limit the ability of EU consumers to access legitimate services on their own initiative, which MiCA explicitly permits. The guidelines also lack clarity in distinguishing targeted marketing from general, non-promotional communication, particularly in digital channels like social media or apps.
- The definition of "purely educational" content within the guidelines remains vague, leaving room for subjective enforcement by national competent authorities (NCAs). Without objective criteria, informative communications that support transparency, innovation, or cybersecurity may be wrongly classified as solicitation, preventing responsible firms from engaging with the public.
- Additionally, the proposed liability framework under Guideline 2 (*Person Soliciting*) does not sufficiently reflect how cryptoasset markets operate. Many issuers, particularly of EMTs and ARTs, have no control over how tokens are presented in the secondary market. The mere presence of a logo on a third-party site, absent a promotional relationship, should not be presumed to constitute solicitation. Furthermore, distinctions between retail and sophisticated investors (in alignment

with MiFID II principles in TradFi) should be incorporated, as not all engagement warrants equal regulatory scrutiny.

- Finally, proposed one-month restriction on follow-up communications after an initial client request, as outlined in Guideline 3 (*Exclusive initiative of the client*) is unduly rigid and incompatible with how digital services operate today. This approach could disrupt services for users who continue to engage platforms of their own volition, and may result in a de facto ban on reverse solicitation, contrary to the intent of MiCA and the Commission's goals to preserve user access and market openness.

Recommendation: *We urge ESMA to adopt a more proportionate, principles-based approach that clearly distinguishes targeted promotional activity from neutral, educational, or security-related communications. Objective criteria should be introduced to assess promotional intent, and liability should only arise where there is demonstrable involvement by the issuer. Our suggested refinements would ensure legal clarity, avoid enforcement overreach, and align the guidelines with MiCA's balanced vision of innovation, user protection, and cross-border market integrity.*

Issue VIII: Significance criteria for EMT issuers are much wider compared to significant banking or payments sector entities

- The EBA draft Delegated Act under MiCAR on certain criteria for the classification of ARTs and EMTs as significant (Article 43(11)) are comprehensive and include various indicators of interconnectedness and international scale.
- While some of the thresholds used are broadly aligned with the Single Supervisory Mechanism (SSM) framework and also the PISA exemption criteria, in contrast, regarding the concept's other purpose of filtering out stablecoins posing systemic risks that warrant application of increased prudential requirements, we believe the thresholds to be significantly too low. It is notably out of match with the Basel Committee on Banking Supervision's Global Systemically Important Banks (BCBS G-SIBs) model that is similarly aimed at capturing systemic risks and introducing increased prudential requirements.
- Furthermore, MiCA's and the EBA's approach of a straightforward dichotomy ("yes" or "no") on the significance question lacks the nuanced, risk-based layers of the G-SIB model, which respond to the relative systemic risk posed by an institution.
- As a consequence, MiCA and the EBA measures create a sharp regulatory cliff-edge effect, imposing markedly elevated requirements on issuers of significant stablecoins without providing any discretionary agility allowing a proportionate, risk-adequate adjustment of requirements for issuers that may warrant transfer of supervisory responsibility to the EBA without posing sizeable

systemic risks, if any. We therefore advocate for a clear separation between the two objectives of MiCA's significance regime: the transfer of supervisory responsibility and the imposition of enhanced prudential requirements.

Recommendation: *We urge the EBA and the Commission to withdraw the current EBA technical advice and to adopt a more proportionate, systemic risk-based approach when assessing the significance criteria for significant or systemically relevant EMT (stablecoin) or ART issuers.*