
TO : **Crypto-asset service providers and applicant crypto-asset service providers**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **11 July 2025**

CIRCULAR NO. : **C722**

SUBJECT : **EBA's No Action letter on the interplay between Payment Services Directive (PSD2/3) and Markets in Crypto-Assets Regulation (MiCA)**

The Cyprus Securities and Exchange Commission ("CySEC") herewith wishes to inform crypto-asset service providers ("CASPs") and applicant CASPs, that on June 10, 2025, the European Banking Authority ("EBA") has published an [opinion](#) on the interplay between Directive (EU) 2015/2366¹ ("PSD2") and Regulation (EU) 2023/1114² ("MiCA Regulation") in relation to CASPs transacting electronic money tokens ("EMTs"), in view of the dual nature of EMTs as crypto-assets under the MiCA Regulation and electronic money as per article 48(2) of MiCA Regulation.

The EBA issued this opinion in response to the European Commission's [request](#) in December 2024 to advise:

- (i) the EU Commission, EU Council and EU Parliament as to how the issue can be resolved in the long term, by making use of the ongoing legislative process of updating PSD2, by means of a proposal for PSD3 and a proposal for Payment Services Regulation ("PSR"); and
- (ii) the National Competent Authorities ("NCAs") in the short-term (while PSD2 still applies) by setting out which type of EMT transactions NCAs are advised not to regard as payment services and therefore not to require an additional authorisation and, for those EMT transactions that will require an additional authorisation, which PSD2 provision are recommended to be de-prioritised for the purpose of supervision and enforcement and from what date.

In relation to point (i) above, EBA advises the EU Commission, Council and Parliament to amend MiCA to fully incorporate payment-related obligations for EMTs such as consumer protection, security of payments, and capital requirements; or alternatively use the legislative

¹ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

² 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.

process of PSD3/PSR to include rules for EMTs without imposing a second authorisation for CASPs. EBA opposes the scenario of excluding EMTs entirely from PSD3/PSR as it could lead to regulatory arbitrage and reduced consumer protection.

Regarding the short-term regulatory treatment of CASPs mentioned in point (ii) above and in an effort to avoid the burden of dual authorisation under both PSD2 and the MiCA Regulation, the EBA advises NCAs to regard the transfer of EMTs on behalf of clients and the custody and administration of EMTs as payment services under PSD2, and the custodial wallets as payment accounts under PSD2. By contrast, the exchange of crypto-asset for funds and exchange of crypto-assets for other crypto-asset services of MiCA Regulation are not deemed to be payment services under PSD2 and this not subject to authorisation.

Regarding the services which requires an authorisation under PSD2, NCAs are advised to allow CASPs a transitional period until March 1, 2026 to seek authorisation under PSD2 or partner with a payment service provider (“PSP”). Furthermore, once authorisation as PSP is granted or for those entities that already hold a PSP license or a partnership with a PSP, NCAs are advised to de-prioritise enforcement of certain PSD2 rules such as on safeguarding, the disclosure of information to consumers pertaining to the level of applicable charges, the maximum execution time of payment transactions, and the unique identifier; while insisting on others, such as the application of strong customer authentication to the accessing of custodial wallets and the initiation of EMT transfers, the fraud reporting and the cumulative calculation of own funds.

CySEC encourages interested parties to consult the full document of the EBA’s opinion for the legal basis and the specific comments and advice given on each of the key areas of interplay between PSD2 and MICA Regulation as identified by the EBA.

Sincerely,

Dr. George Theocharides
Chairman
Cyprus Securities and Exchange Commission