

SRB's response to the European Commission's Targeted Consultation on the review of Regulation on the Markets in Crypto-Assets (MiCA)

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1. SRB priorities for the MiCA review

The SRB welcomes the European Commission's (hereinafter the Commission) initiative to launch a targeted consultation on the review of MiCA. Tokenisation has the potential to foster innovation in financial services and improve the efficiency of payments, including cross-border transactions, provided that appropriate safeguards are in place. MiCA is an advanced framework aligned with key FSB recommendations, setting out a coherent and harmonised regulatory regime for crypto-asset issuers and service providers.

The SRB in its response will highlight resolution-related considerations as well as share an SRB staff view from the perspective of the Banking Union resolution authority. The involvement of credit institutions in stablecoin-related activities creates new channels of risk that could affect their resolvability, exposing them to liquidity, operational, and reputational risks across multiple roles: (1) as issuers; (2) as institutions with significant funding (including via deposit) from token issuers and service providers (CASPs); (3) as providers of services (e.g. custody, payments or reserve management); and (4) as intermediaries¹ holding stablecoins on balance sheet.

The SRB's response to the MiCA consultation focuses on the first two roles – credit institutions as issuers and credit institutions receiving deposit-based funding from token issuers' reserves. Some observations deriving from their role as custodians are also included.

Finally, the response touches on the broader question of crisis management for significant tokens issued by non-banks, both Electronic Money Tokens (EMTs) and Asset-Referenced Tokens (ARTs), given the SRB's experience with building resolution capabilities for credit institutions and given its relevance for the feasibility of resolution strategies for credit institutions.

MiCA and the resolution framework for credit institutions pursue complementary objectives while operating from different perspectives. MiCA focuses primarily on the investor protection, addressing the soundness of ART and EMT issuers and crypto-asset service providers on a going-concern basis, including

¹ This includes both cases where credit institutions hold crypto-assets on their own balance sheet, thereby assuming direct credit and/or market risk exposures, and cases where they act in a genuine intermediary capacity, for instance in clearing or settlement activities, in which case their exposure primarily takes the form of counterparty credit risk.

reserve backing, safeguarding, recovery planning and orderly redemption. The BRRD²/SRMR³ framework, by contrast, focuses on the management of a credit institution failure, the preservation of critical functions, depositor protection, the avoidance of contagion and the protection of financial stability. Given the importance of ensuring that these frameworks interact effectively, the SRB staff is providing targeted input to the ongoing MiCA consultation.

The SRB considers that the review of MiCA could introduce additional provisions to ensure that the framework adequately addresses scenarios involving the resolution or liquidation of credit institutions with material stablecoin-related linkages, particularly where such scenarios may give rise to financial stability concerns. Some MiCA provisions strengthen interconnections between token issuers and credit institutions, especially the minimum percentage of deposits to be held in the reserve. The impact of the failure of a credit institution and the execution of a resolution strategy are not specifically taken into account in the framework and should be considered in the review. In particular, the failure of a credit institution with material stablecoin-related linkages could, depending on the structure of the arrangements, affect confidence in specific tokens by raising concerns about the availability or accessibility of assets used for redemption (possibly triggering peg instability). The failures of Silicon Valley Bank in 2023 and FlowBank in 2024 highlight these risks. At the same time, while requirements for stablecoins issuers to hold a substantial portion of reserves in the form of deposits intend to preserve credit institution's funding and facilitate availability of assets to support token redemption, they may alter the composition of the deposit base, e.g. away from retail deposits, in particular where token issuers place reserve deposits with credit institutions. This could increase the share of potentially volatile deposits, which may behave differently from retail deposits, with the size and stability of this source of funding being closely linked to stablecoin issuance and redemption dynamics. As a result, funding of those credit institutions may be subject to larger and more rapid fluctuations and be more sensitive to market developments and shifts in confidence.⁴ In stress situations, redemption pressures at the issuer level could translate into rapid withdrawal of related deposits held with credit institutions, and thereby induce a shock for a specific credit institution, in particular where those deposits are large (both in absolute or relative terms for the specific credit institution). This could have implications for the resolution or liquidation of credit institutions with stablecoin linkages, as heightened volatility and rapid outflows could lead to liquidity deterioration and accelerate insolvency risks, and undermine the effectiveness of resolution planning.

Against this background, the SRB emphasises the need for sufficient visibility into credit institutions' material stablecoins-related linkages to assess financial stability risks during the resolution of a credit institution. In particular, the SRB would support enhanced data and information exchange mechanisms, to ensure that resolution authorities are informed, where relevant, of material stablecoin-related linkages, operational dependencies and concentration risks involving credit institutions. In line with the report-once principle, sharing the relevant information collected by MiCA competent authorities with resolution authorities, including resolution authorities of credit institutions, should be made explicit in MiCA.⁵ Such information would support resolution authorities in assessing whether stablecoin-related activities could affect resolution of a

² Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, as amended.

³ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund, as amended.

⁴ This is also reflected in its prudential treatment, as such deposits are generally subject to a 100% outflow rate under the liquidity coverage ratio framework.

⁵ Moreover, considerations could be given to strengthen joint assessments, also with an objective to build harmonised capabilities across different resolution authorities as well as between resolution authorities and supervisors, or to apply similar analytical tools and/or to strengthen cooperation with resolution authorities via the existing supervisory colleges.

credit institution, for example through the assessment of whether those functions are critical, through affecting operational execution or through the potential impact of a credit institution's failure on others.

Furthermore, targeted enhancements to strengthen coordination mechanisms could also be considered, particularly regarding the involvement of resolution authorities. While MiCA mandates consultation on redemption plans with the resolution authority of the issuer of EMTs/ARTs (Articles 47 & 55 MiCA), it does not require notification to the relevant resolution authority once a redemption plan is activated by the competent authority. This is specifically relevant where a subsidiary of a credit institution licensed as Electronic Money Institutions (EMIs) is involved. Strengthening notification requirements between MiCA supervisors and resolution authorities of credit institutions, will help bridge gaps between supervision and crisis management. Where stablecoin arrangements involve credit institutions, directly (e.g. as reserve deposit credit institutions⁶), or indirectly through entities (e.g. credit institution-owned entities) or services, interactions between the two frameworks (SRMR/BRRD and MiCA) may arise in practice. The review should therefore consider possible improvements to cooperation, information-sharing and coordination mechanisms between MiCA supervisors and resolution authorities for credit institutions. This would support potential links between going-concern supervision under MiCA and gone-concern crisis management under the BRRD/SRMR framework.

The MiCA review should also strengthen the interaction between the MiCA framework and the BRRD/SRMR framework. At present, the relationship between these frameworks may create scope for legal uncertainty, divergent interpretations among market participants, supervisory authorities and resolution authorities, and potentially inconsistent outcomes across Member States. These challenges are compounded by areas where the EU framework is not yet fully harmonised, including, for example, with respect to the treatment and definition of deposits. In addition, while MiCA establishes a robust asset segregation regime and insolvency protections for EMTs issued by EMIs, legal uncertainty may nonetheless arise from differences across Member States in the treatment of assets under national insolvency laws, including rules on bankruptcy remoteness and the ranking of claims. In case of ARTs, for whose issuance no specific legal structure is mandated by MiCA, the divergencies across the Member States can be larger. The upcoming MiCA review provides an opportunity to clarify these interactions and address potential gaps between the various components of the EU financial regulatory framework, thereby enhancing legal certainty, promoting greater consistency (across frameworks and across Member States), and supporting the effective functioning of supervision, resolution and depositor protection arrangements.

More broadly, the SRB is of the view that crisis management for significant tokens (ARTs & EMTs) issued by non-credit institutions could be further assessed and enhanced. The existing framework relies on mandatory recovery and redemption plans, with an orderly token liquidation as a mandatory course of action in the gone concern. This approach may be appropriate where these tokens remain limited in scale, complexity and systemic relevance. However, if such tokens were to increase significantly in importance, liquidation may not always be the preferred or sufficient strategy. Consideration could be given to the possible design of a targeted crisis-management, contingency or resolution framework for significant tokens issued by entities other than credit institutions, such as EMIs and ART issuers who are not credit institutions (e.g. to facilitate transfers of issuance business). This additional toolkit would also support resolution of credit institutions with significant linkages to stablecoin issuance.

2. SRB response to the MiCA review consultation (only selected questions)

⁶ Credit institution holding the required reserved assets by token issuers.

Part 2: Requirements applying to ARTs and EMTs and their issuers

2.1. Liquidity and reserve requirements

Regarding EMTs issued by credit institutions (Q16), the exemption under Article 58 of MiCA reflects their existing comprehensive prudential and resolution framework applicable to credit institutions, which already addresses capital, liquidity, and resolution risks. The existing resolution framework under the BRRD and SRMR remains applicable, justifying the exemption for EMTs issued by credit institutions to the requirement to maintain a reserve of assets and to segregate them. From the SRB perspective, nevertheless, EMT issuances by credit institutions (as well as other stablecoin-related activities) could become closely integrated with payment, settlement, custody or deposit-taking services. It follows that resolution authorities should have sufficient visibility to assess whether these activities could interact with resolution actions, e.g. for the identification or continuity of critical functions within the meaning of the SRMR/BRRD or for efficient application of resolution tools in case of their failure (see Section 2.6 below). Moreover, consideration could be given to ensuring that competent and resolution authorities have appropriate powers to address institution-specific circumstances in exceptional cases, where warranted by the scale, nature or risk profile of the EMT issuance of a specific credit institution.

In any event, if EMT direct issuance by credit institutions grows significantly, becomes systemically relevant, or integrates closely with critical payment or settlement functions, any potential changes to the existing framework should take into account resolvability of credit institutions, the application of resolution tools and strategies, as well as ensure there is sufficient bail-in capacity.⁷

The SRB would like to highlight the following dimensions linked with the existing liquidity and reserve requirements for ARTs and EMTs, in particular with the requirement of the minimum percentage of deposits held with credit institutions:

- MiCA's requirement for ART/EMT issuers to hold part of their reserves as deposits with credit institutions creates direct interconnections between token issuers and credit institutions. Consequently, stress affecting either side—such as a run on a stablecoin or concerns about the solvency of a deposit reserve-holding credit institution—may be transmitted more rapidly through the financial system.
- From the token issuer to a credit institution perspective, the requirement of holding a minimum percentage of deposits at credit institutions may create an additional source of funding for credit institutions. In particular, credit institutions with greater funding needs may have stronger incentives to attract such deposits and could therefore become more reliant on funding from token issuers, which are potentially more rate- or confidence-sensitive. Where such funding becomes material or concentrated, this could increase credit institutions' vulnerability to sudden outflows, particularly in case of a token issuer's stress or redemption scenario. Such rapid outflows could accelerate liquidity deterioration at the credit institution, potentially shortening the time available for supervisory or resolution action and increasing the likelihood that resolution authorities need to consider the use of a moratorium.

⁷ Strict reserve segregation could reduce asset mobility (could affect liquidity management under stress), isolated assets could complicate the application of transfer strategies, special claims or exclusions could complicate bail in. For example, the limited interlink between BRRD/SRMR and MiCA creates uncertainty regarding whether the ART issuer's redemption obligation (Article 39 MiCA) qualifies as a 'secured liability' under Article 44(2)(b) BRRD. While ART redemption mechanisms resemble secured liabilities (e.g., isolated reserve assets), the BRRD requires a legally enforceable security interest. This ambiguity could affect the 'No-creditor worse off' (NCWO) principle in resolution. We continue assessing the impact but consider this aspect unclear.

Against this background, credit institutions and authorities should monitor aggregate ART-/EMT-related deposits at credit institutions to be able to take actions – where warranted - to mitigate risk from interconnectedness and ensure resolvability. Supervisory intervention powers collectively strengthen the resilience of these token issuers as well as of the credit institutions, enhance resolvability and thereby safeguard financial stability. It follows that a precondition for this is effective data and information sharing as well as efficient coordination mechanisms with resolution authorities (see Section 2.6 below).

Additionally, from the crisis management perspective of EMT and ART issuers, the existing liquidity and reserve requirements do not fully eliminate the relevance of counterparty default risk for EMTs and ARTs (for example where a credit institution holding reserve assets becomes subject to insolvency or resolution, and moratorium measures). It follows that a failure of a credit institution with material stablecoin linkages could affect confidence in specific tokens and potentially give rise to peg instability or operational disruptions, particularly when concerns arise about the availability or accessibility of assets used for redemption.

2.2. Criteria for determining significance

The SRB considers that additional criteria could be considered to determine “significant” tokens, particularly in light of multi-issuer structures (Q19). MiCA recognises only the relevance of multi-issuer structures, where all issuers are in the EU, for significance determination (Articles 43(3) and 56(2) MiCA). While these provisions are an important safeguard for this specific type of multi-issuer, the framework could be expanded to include broader sets of multi-issuances, and potentially broader types of arrangements that are economically or functionally equivalent to multi-issuance, even if legally separate. This includes tokens issued under common brands, governance structures, reserve management, or redemption mechanisms, or those considered as interchangeable by markets. This clarification ensures that significance assessments reflect the true market footprint and risk profile of a token arrangement, preventing regulatory fragmentation.

From a crisis management perspective, the SRB is of the view that multi-issuer structures may pose additional resolvability challenges to credit institutions, as failures in shared reserve assets, custodians, or redemption channels could trigger systemic risks. In particular, the sharing of reserve assets, custodians, banking relationships or redemption channels across several issuers and jurisdictions may create common dependencies and concentration risks. Stress affecting one issuer, reserve custodian or redemption channel could therefore propagate to other entities in the arrangement, for example through simultaneous reserve liquidations, large deposit withdrawals from credit institutions holding reserve assets, or disruption of critical operational services. Where such exposures are material or concentrated, these transmission channels could amplify liquidity pressures and contribute to broader contagion across participating credit institutions and the financial system. Under stressed conditions, the multi-issuers pose additional challenges, e.g. linked to operational separability, reserve asset location, cross-default risks, and the ability to manage redemptions in a coordinated manner to ensure orderly crisis management of non-credit institution token issuers.

In addition, all these concerns also apply, and can be more complicated, to third-country multi-issuer structures.

Furthermore, the SRB is of the view that the classification of an ART or EMT as significant should be associated with additional crisis management requirements or a separate contingency or resolution regime (see Section 2.4 below).

2.3. Redemptions

The right of redemption at par and at all times (Articles 39 and 49 MiCA) is a core safeguard and, from a resolution perspective, a core element of confidence, investor protection and orderly crisis management for ARTs and EMTs. The SRB is of the view that any weakening might undermine confidence, increase run risk and make an orderly wind-down more difficult.

The rules on redemption timing should be specified. A redemption right that is formally permanent but operationally uncertain may not provide effective protection in stress. From a resolution and crisis-management perspective, MiCA should set clearer expectations for token holders on ordinary-course redemption timeframes. These should also allow competent authorities to approve temporary and proportionate crisis measures where immediate redemption could undermine equal treatment of holders or force a disorderly liquidation of reserve assets. The framework should provide a harmonised basis for distinguishing between normal and stress conditions.⁸

Furthermore, four additional points related to redemption policies should be reiterated. First, the interplay between the redemption rights and the resolution measures applicable to credit institutions, including moratorium measures could be further clarified (see Section 2.1 above). Second, enhanced crisis-management requirements may be more appropriate for significant ARTs and EMTs to avoid disorderly redemption dynamics (see Section 2.4 below). Third, the activation of redemption plans would benefit from enhanced information sharing and coordination mechanisms with resolution authorities (see Section 2.6 below). Fourth, redemption policies should be sufficiently detailed, operationally credible and potentially tested. While Article 39 MiCA already outlines clear and detailed policies and procedures for redemption, resolution planning experience calls for further attention to be given to their operationalisation in stress scenarios. In particular, disclosures and internal arrangements should explain and be able to demonstrate how redemption would work under stress, including sequencing, treatment of holders across jurisdictions and distribution channels, dependencies on custodians, credit institutions, payment providers or crypto-asset service providers, access to reserve assets, and the interaction with recovery and redemption plans.

2.4. Stability issues

The current MiCA requirements for recovery plans and redemption plans (Q24) under Articles 46 and 47 provide an important basis for orderly crisis preparedness. For non-significant ARTs and EMTs, these requirements should remain proportionate and focused on clear procedures, adequate governance, operational preparedness and credible access to reserve assets.

For significant ARTs and EMTs, however, the requirements could be further specified and assessed from a financial-stability and crisis-management perspective.⁹ In particular, recovery and redemption plans should demonstrate that the proposed measures are operationally credible, feasible under stress, executable across relevant jurisdictions and consistent with applicable insolvency or resolution frameworks where relevant. This would help ensure that, where a token arrangement reaches a scale or level of interconnectedness that could give rise to broader stability risks, recovery and redemption plans are not only formal compliance documents but effective tools to support orderly crisis management.

In the existing framework, the designation as a significant ART or significant EMT is associated mainly with additional supervisory and prudential requirements: significance entails EBA supervision and additional requirements, including enhanced liquidity management, stress testing, own-funds and reserve-related

⁸ For example, clearer expectations could be established regarding ordinary-course redemption timeframes and how these may be adapted when stressed conditions or recovery measures arise.

⁹ A distressed significant non-credit institution token issuer may be forced to rapidly liquidate its reserve assets (i.e. through fire sales), depressing market prices and creating contagion risks for credit institutions, even in the absence of direct links to crypto-asset firms.

obligations. Under the current MiCA framework, no dedicated contingency or resolution framework is foreseen for issuers of significant ARTs or EMTs (Q25). The framework instead relies on mandatory recovery and redemption plans focused on orderly token liquidation and redemption at par at any time. This approach may be appropriate where ARTs and EMTs remain limited in scale, complexity and systemic relevance. However, if such EMTs and/or ARTs were to increase significantly in importance, liquidation may not always be the preferred strategy. If ARTs or EMTs issued by EMIs become systemic, the adequacy of liquidation as the sole crisis management mechanism may need review.

Additionally, the EBA's guidelines on recovery and redemption plans under MiCA provide standardised content and format requirements but do not ensure full harmonisation of crisis management frameworks for ART and EMT issuers across Member States. This is because of the lack of alignment on relevant elements such as the definition of deposits and insolvency regimes. From the SRB's perspective, similar considerations to the objectives of protecting critical functions and financial stability should be applied, particularly if stablecoins become a credible alternative for transferring value. To address this, the SRB proposes amending MiCA to strengthen coordination with BRRD, clarify bail-in rules for issuer deposits, and introduce a tailored and proportionate crisis management regime for non-credit institution issuers of significant EMT and ART.

2.5. Global stablecoins arrangements and interactions with other regulatory frameworks and potential additional safeguards in MiCA

Given the strong safeguards in the EU framework, regulatory arbitrage arising from fungibility of multi-issuer is a structural vulnerability. This risk depends heavily on the regulation in force where the other issuing leg or legs are located (Q29). In a stress scenario, holders may migrate towards the issuer or jurisdiction perceived as offering stronger redemption rights, reserve backing or legal protection. The EU leg of a global stablecoin arrangement may be subject to MiCA's obligations while representing only a small share of the global arrangement or global reserves.¹⁰ In this case, supervisors may not be able to clearly isolate the EU claimant pool of fungible tokens (e.g. due to the lack of legal clarity as to the concept of 'holder'/'EU holder' for the purposes of MiCA), which could complicate enforcement, redemption and crisis-management actions. These risks may be amplified where holders across the wider group seek to redeem through the EU issuer in order to benefit from stronger EU reserve and redemption requirements, while reserve assets located outside the EU are not readily accessible.

Furthermore, reserve-related safeguards in MiCA do not include a specific framework governing the transferability of reserve assets across issuing entities or jurisdictions in a multi-issuer model. From a crisis-management perspective, this leaves a potential gap where reserve assets backing a fungible global token are located outside the EU or are subject to third-country legal, insolvency or supervisory constraints. In such cases, the EU authorities may not be able to ensure timely access to, or transfer of, reserve assets needed to meet redemption requests in the EU.

Reserve transfers or rebalancing between issuers may also be delayed or restricted in times of stress. From an operational perspective, rebalancing reserves across issuers may require multiple transactions, intermediaries and internal approvals, which may become slower or less reliable precisely when timely access to reserve assets is most important. From a financial perspective, reserves held across different currencies or jurisdictions may expose the arrangement to currency, liquidity and market-fragmentation risks, particularly where redemption pressure is concentrated in one jurisdiction while reserves are held elsewhere.

¹⁰ In addition, multi-issuer arrangements may prove difficult to supervise effectively in practice. Even where authorities formally possess intervention powers over the EU issuer, risks may continue to build outside the Union through affiliated issuers, limiting the effectiveness of supervisory measures and potentially undermining crisis-management actions.

Given the significant legal, operational and prudential complexities associated with multi-issuer arrangements (Q30), if permitted at all, MiCA could consider a cautious approach towards them.

Any recognition of multi-issuer structures should be conditional, among other factors, on authorities being able to identify, before a crisis, which entity is responsible for redemption, where the relevant reserves are located, which law governs access to those reserves, and whether the EU leg of the arrangement can be wound down, transferred or redeemed in an orderly manner. Accordingly, multi-issuer arrangements should be subject to clear *ex ante* requirements on redemption responsibility (e.g. definition of relevant holders), and legal enforceability, operational separability and cooperation between relevant authorities. Issuers should also demonstrate that the EU issuer can meet redemption requests without relying on uncertain or discretionary transfers from third-country entities (Q37). Particular attention should be paid to ensuring that reserve assets supporting claims of EU token holders remain effectively accessible and enforceable under EU legal arrangements, including in stress situations and insolvency scenarios.

Part 3: The appropriateness of the current legal framework

2.6. Reporting

The SRB considers of high relevance to have sufficient visibility into credit institutions' stablecoins-related linkages to assess financial stability risks during planning for resolution and during resolution of a credit institution. To this end, appropriate information-sharing arrangements between competent authorities and resolution authorities should ensure timely access, where relevant, to information on material stablecoin-related exposures, operational dependencies and concentration risks involving credit institutions, analogous to other business activities. Such information would support the assessment of potential implications for resolvability, the continuity of critical functions, the execution of resolution tools or potential contagion channels.

Furthermore, the SRB considers important that, where entities combine crypto-asset services with other regulated or unregulated activities, additional data exchanges among competent authorities are put in place, particularly when such combinations could materially affect recovery, redemption, wind-down, or resolution outcomes (Q51). In particular, the SRB and national resolution authorities as the authorities responsible for resolution of credit institutions should have access to relevant information and be involved, where appropriate, in supervisory coordination arrangements concerning entities whose structure, scale, or interconnected activities could complicate an orderly resolution process. Resolution authorities should not be engaged only once a crisis at the entity under their remit emerges; rather, they should have timely access to relevant information to have visibility on operational interdependencies, structural complexities, and other factors that could be an obstacle to an orderly resolution process. Focus should be especially on significant token issuers and complex groups, also with a view to ensuring proportionality.

Furthermore, strengthening of coordination mechanisms could also be considered, particularly regarding the involvement of resolution authorities in case of material linkages between credit institutions and issuers of significant stablecoins. While MiCA mandates consultation on redemption plans with the resolution authority of the issuer of EMTs/ ARTs (Articles 47 & 55 MiCA), it does not require notification to the relevant resolution authority once a redemption plan is activated by the competent authority. This is specifically relevant where a subsidiary of a credit institution licensed as EMI is involved. Strengthening coordination between MiCA supervisors and resolution authorities of credit institutions will help to avoid gaps between going-concern supervision under MiCA and gone-concern crisis management under the BRRD/SRMR framework.

In addition, the SRB has limited visibility on the reporting requirements applicable to EMT and ART issuers and Crypto-Asset Service Providers (CASPs). As a result, there is a need for enhancing the information flow with the resolution authorities. This does not necessarily require new reporting to resolution authorities of credit institutions, but rather in line with the report-once principle, the relevant information should, where possible, be captured through existing prudential, supervisory or resolution reporting and shared with resolution authorities where it is material for resolvability, critical function analysis or the execution of resolution tools.¹¹ As a result, given the growing interconnections between credit institutions and token issuers, it is essential that resolution authorities have sufficient visibility over credit institutions' links to the crypto-asset and stablecoin ecosystem, including those stemming from EMIs' obligations under MiCA, PSD2, the EMD, and other relevant EU legislation, as well as the volume of related deposits held with European credit institutions.

Part 4: Policy areas beyond the current scope of MiCA

2.7. Tokenised deposits

Tokenised deposits do not, in principle, raise fundamental legal challenges from a deposit insurance perspective, as recording a deposit claim on a distributed ledger rather than a traditional ledger does not alter its underlying legal nature — and therefore its eligibility for protection under the EU's DGSD, which guarantees deposits up to EUR 100,000 per depositor per institution. However, EU law does not provide a single, harmonised definition of “deposits”, which creates legal uncertainty, particularly in the context of tokenised arrangements, and should therefore be addressed.

While preserving the views of technological neutrality, from a resolution perspective, the distributed and programmable nature of tokenised deposits, particularly on permissionless blockchain, may also create operational challenges for identifying depositors, determining DGS eligibility, executing bail-in or transfer strategies, and communicating effectively with depositors. While tokenised deposits do not fundamentally alter depositor protection, their growing use may require resolution authorities to reassess operational preparedness and the potential implications for resolvability (Q78-79). Certain design features, such as transfer restrictions, wider transferability or potential use of tokenised deposits in more open networks, may affect the product's risk profile,

2.8. Conflicts of law

This section summarises points considered relevant to the SRB's role that do not directly relate to any specific question in the targeted consultation. They highlight the areas where the interaction between the MiCA framework and the resolution framework for credit institutions (including deposit protection) could be strengthened or clarified.

In light of Article 8b DGSD¹², it is important to clarify the treatment of stablecoin reserves held by EMIs and ARTs issuers at credit institutions. Clarification at EU level is also needed on the treatment of funds received by EMIs in exchange for EMTs and deposited with credit institutions pursuant to the applicable safeguarding requirements, including their treatment in insolvency and resolution, their interaction with the bail-in framework

¹¹ As a way of example, newly introduced requirements for token issuers to place reserve deposits in credit institutions on behalf of the holder of the crypto-asset materially impacts the determination of critical functions, the assessment of financial stability impacts and the determination of mandatory or discretionary exclusions from bail-in (for instance, because of the coverage by a DGSD). See Arts.36(4) for ARTs, 45(7) for significant ARTs, Arts. 54 for EMTs and 58 for significant EMTs. Current reporting requirements for resolution purposes do not envisage such dimension.

¹² Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes, as amended.

and the application of the “no creditor worse off” principle. Such clarification would help ensure a consistent approach across the relevant EU legislative frameworks.

Moreover, from the perspective of a credit institution acting as a service provider (i.e. custody), in the case of an ART issuer’s failure, the treatment of reserve assets may also require further clarification. MiCA requires reserve assets to be operationally segregated from the issuer’s estate and protected through custody arrangements, but the insolvency treatment of those assets across Member States remains not fully harmonised. It may be therefore unclear whether, upon the issuer’s failure, the custodian should return assets directly to token holders, transfer them to the issuer’s insolvency administrator for distribution in accordance with the applicable insolvency process, or follow another mechanism under national law. This dependence on national insolvency law could lead to divergent outcomes across Member States.

A further issue concerns the interaction with the resolution framework where a credit institution holding a reserve deposit itself enters resolution. Article 44(2) BRRD contains exclusions from bail-in for certain liabilities, including covered deposits and certain client-assets, client-money or fiduciary arrangements. However, it does not contain a specific exclusion for ART reserve assets or stablecoin reserve deposits as such. Further clarity as well as the harmonisation across the Member States may therefore be needed on whether and how liabilities corresponding to such reserve or safeguarding arrangements would be treated in bail-in, including by analogy with existing protections for client assets or client money.

The SRB stands ready to support any future Commission review or follow-up work on the issues explored in this response, in particular where they relate to the interaction between MiCAR and the BRRD/SRMF resolution framework, the treatment of stablecoin-related exposures in resolution, and the implications for resolvability and crisis management.