

┌ MiCAR Compliance Toolkit
**Guide to White Papers, Marketing
and Advertising** └

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Issuers of asset-referenced tokens (ARTs) and e-money tokens (EMTs), and offerors or persons seeking admission to trading of cryptoassets other than ARTs and EMTs are required to publish a cryptoasset white paper and any marketing communications on their website. For issuers of ARTs, this white paper must also be approved by the issuer's national competent authority.

Our **Overview of MiCAR White Paper Requirements** at this end of this Guide sets out more details on the information required to be included in white papers.

ARTs and EMTs

1 What requirements must issuers comply with in order to offer ART or EMT to the public or seek their admission to trading?

Click [here](#) to read Q&A on issuer authorization requirements and ongoing obligations in our **Guide to Authorization and Compliance Requirements for Issuers**.

2 What format must the white paper follow?

Our **Overview of MiCAR White Paper Requirements** at this end of this Guide sets out more details on the information required to be included in white papers. These requirements include, for example:

- information about the issuer and the cryptoasset;
- information about the offer to the public or the intended admission to trading;
- information on the rights and obligations attached to the cryptoasset;
- a summary providing key information about the offer to the public or the intended admission to trading; and
- specific warnings and statements.

White papers must be drawn up in an official language of the home (and host, where relevant) Member State, or in a language customary in the sphere of international finance (i.e., English).

A harmonized template will be available. The European Supervisory Authorities (ESAs) are developing regulatory technical standards (RTS) and implementing technical standards (ITS) on the information to be submitted and the standard forms and templates to be used.

3 What are the white paper notification requirements?

ART issuers seeking authorization must include a copy of the cryptoasset white paper – on successful authorization, the white paper is deemed to be approved.

Credit institutions issuing ARTs are not required to be separately authorized under MiCAR, but must submit the white paper to their national competent authority for prior approval. This process is still under discussion, but draft RTS issued by the European Banking Authority (EBA) indicate that the competent

authority must acknowledge receipt of the application for approval of the white paper by the end of the second working day following receipt, and assess the white paper for completeness within 20 working days of receipt. Competent authorities must also transmit the complete white paper to the European Central Bank (ECB) within two working days of the acknowledgement - the ECB is then given 20 working days to issue an opinion if it chooses to do so. An iterative process of improvements and revisions to the white paper could follow.

Competent authorities must notify credit institutions of their final decision regarding approval of the white paper within five working days of the receipt of a new white paper (following any iterative improvement process), or where no changes are requested, within five working days of a positive opinion from the ECB or following the expiration of the 20 working day period given to the ECB in which to issue the opinion if no opinion is issued. The white paper must not be published before it is approved by the competent authority.

EMT issuers must notify the competent authority of their home Member State at least 20 working days before publishing the EMT white paper. Prior approval of the white paper before publication is not required.

4 Are there any requirements regarding modifications to the white paper?

Yes. ART issuers must notify their national competent authority of any intended change to their business model likely to have a significant influence on the purchase decision of any ART holders or prospective holders at least 30 working days before the intended change takes effect. A modified white paper reflecting the change will need to be drawn up and submitted to the issuer's competent authority for approval.

EMT issuers must issue a modified white paper describing any significant new factor, any material mistake or any material inaccuracy that is capable of affecting the assessment of the EMT. The modified white paper needs to be notified to the issuer's competent authority and published on the issuer's website.

5 Are there any publicity requirements regarding white papers?

Yes. Issuers must publish white papers on their websites by the starting date of the offer or the admission to trading.

6 What obligations apply to marketing communications?

Any marketing communications relating to an offer to the public of an ART or EMT, or to the admission to trading of an ART or EMT, must comply with obligations under MiCAR applying to marketing.

The marketing communications must:

- be clearly identifiable as such;
- be fair, clear and not misleading;
- be consistent with the white paper;
- clearly state that a white paper has been published and indicate the issuer's website address and contact details; and
- contain a clear statement that the holders of the ART or EMT have a right of redemption against the issuer at any time (and for EMTs, at par value).

7 Do marketing communications require prior approval?

No. Marketing communications do not require prior approval from national competent authorities before their publication. However, they must be notified to national competent authorities on request.

8 Are there any publicity requirements regarding marketing communications?

Marketing communications must be published on the issuer's website. This includes modifications to marketing communications. However, this does not affect the ability of the issuer to conduct market soundings.

9 Are there any restrictions to the dissemination of marketing communications?

Marketing communications must not be disseminated prior to publication of the white paper.

Cryptoassets which are not ARTs or EMTs

1 What requirements must offerors comply with in order to offer cryptoassets to the public or seek their admission to trading?

Click [here](#) to read Q&A on offeror requirements and ongoing obligations in our **Guide to Authorization and Compliance Requirements for Issuers**.

2 What format must the white paper follow?

Our **Overview of MiCAR White Paper Requirements** at this end of this Guide sets out more details on the information required to be included in white papers. These requirements include, for example:

- information about the issuer, offeror or the person seeking admission to trading;
- information about the cryptoasset project and underlying technology;
- a summary providing key information about the offer to the public or the intended admission to trading; and
- specific statements and warnings.

White papers must be drawn up in an official language of the home (and host, where relevant) Member State, or in a language customary in the sphere of international finance (i.e., English).

A harmonized template will be available. The ESAs are developing RTS and ITS on the information to be submitted and the standard forms and templates to be used.

3 What are the white paper notification requirements?

Offerors, persons seeking admission to trading, or operators of trading platforms for cryptoassets which are not ARTs and EMTs must notify the competent authority of their home Member State at least 20 working days before publishing the white paper. Prior approval of the white paper before publication is not required.

4 Are there any requirements regarding modifications to the white paper?

Yes. Offerors, persons seeking admission to trading, or operators of a trading platform for cryptoassets which are not ARTs and EMTs must modify their

published white papers and, where applicable, their published marketing communications, whenever there is a significant new factor, material mistake or material inaccuracy that is capable of affecting the assessment of the cryptoassets. The modified white papers and, where applicable, modified marketing communications, and the reason for the modification, must be notified to their competent authority at least seven working days before their publication.

5 Are there any publicity requirements regarding white papers?

Yes. Offerors and persons seeking admission to trading must publish white papers on their websites before the starting date of the offer or the admission to trading.

6 What obligations apply to marketing communications?

Any marketing communications relating to an offer to the public of cryptoassets which are not ARTs and EMTs, or to their admission to trading, must comply with obligations under MiCAR applying to marketing.

The marketing communications must:

- be clearly identifiable as such;
- be fair, clear and not misleading;
- be consistent with the white paper;
- clearly state that a white paper has been published and indicate the website address and contact details for the offeror, the person seeking admission to trading, or the operator of the trading platform for the cryptoasset concerned; and
- contain a clear statement that the marketing communication has not been approved by any competent authority.

7 Do marketing communications require prior approval?

No. Marketing communications do not require prior approval from national competent authorities before their publication. However, they must be notified to national competent authorities on request.

8 Are there any publicity requirements regarding marketing communications?

Marketing communications must be published on the website of the offeror or person seeking admission trading. This includes modifications to marketing communications.

9 Are there any restrictions to the dissemination of marketing communications?

Marketing communications must not be disseminated prior to publication of the white paper. However, this does not affect the ability of the offeror, the person seeking admission to trading or the operator of a trading platform to conduct market soundings.

CASPs

There are relatively few marketing requirements in MiCAR that apply directly to cryptoasset service providers (CASPs).

CASPs need to ensure that any marketing communications are identified as marketing communications, and are fair, clear and not misleading. This includes refraining from deliberately or negligently misleading clients in relation to real or perceived advantages of any cryptoassets.

Further, CASPs operating a trading platform for cryptoassets, exchanging cryptoassets for funds or other cryptoassets, providing advice on cryptoassets or providing portfolio management on cryptoassets must provide their clients with hyperlinks to any white papers for the cryptoassets in relation to which they are providing those services.

More information on obligations for CASPs relating to client communications and disclosures can be found in our [Guide to Authorization and Compliance Requirements for CASPs](#).

CASPs should remember that national rules on financial promotions, marketing and advertising will apply to their activities. This is especially important given the digital nature of cryptoassets and the ways in which they are typically marketed - CASPs should exercise caution in engaging in social media advertising, including through the use of so-called "finfluencers", where local marketing rules may extend the scope of relevant marketing restrictions or obligations to any advertising party.



A Local Perspective – Crypto Marketing in Spain

The Comisión Nacional del Mercado de Valores (CNMV) has issued national rules on the advertising of cryptoassets presented as investments.

A number of exclusions apply to the rules, including among others where the advertising relates to a financial instrument under the revised and recast Markets in Financial Instruments Directive (MiFID), a cryptoasset that cannot be invested, or a non-fungible token (NFT), or the advertising takes the form of a white paper.

The rules are applicable to any advertising activity aimed at current or potential Spain-domiciled investors, if the goal of the advertising is to promote, implicitly or explicitly, cryptoassets as a form of investment. This includes, for example:

- Any form of advertising, regardless of the communication medium and formats used.
- Advertising campaigns and mass advertising campaigns: targeting more than 100,000 people.
- Commercial communications.

The rules are broad and apply to almost anyone advertising relevant cryptoassets, including:

- Providers of cryptoasset services when they advertise cryptoassets.
- Providers of advertising services.
- Any person that conducts activities related to cryptoassets, either on their own or through third-party delegation.

Under the rules, entities within scope must have regard specific principles and criteria on the content and format of advertising, taking into account the nature and complexity of the advertised product, the characteristics of the communications media used and the target audience. Disclaimers and references to risk factors must be included in relation to the advertised cryptoasset. Entities within scope must also keep a register of the information and documentation relating to ongoing advertising campaigns and those carried out in the past two years.

While preapproval of marketing communications is not required, prior notification to the CNMV is required for mass advertising campaigns at least 10 days before execution. However, entities should be aware that even where advertising is not considered to be mass advertising campaigns in the strict sense, the CNMV, in its capacity as regulator, may require the notification of other campaigns in advance when it considers that the advertising could have a significant impact on the target audience.

The CNMV may also require (i) the suspension or correction of advertising campaigns that do not comply with the marketing rules, and (ii) may also levy sanctions for noncompliance. The CNMV has reiterated that its supervisory efforts are focused on investor protection, and it intends to review and amend the marketing rules in light of MiCAR.



Overview of MiCAR White Paper Requirements



Obligation		Cryptoasset		
		ART	EMT	Other cryptoasset
Information requirements:	Information about the issuer	YES ✓	YES ✓	YES ✓ (or offeror if different)
	Information about the cryptoasset	YES ✓	YES ✓	YES ✓ (including information about the cryptoasset project)
	Information about the offer to the public of the cryptoasset or its admission to trading	YES ✓	YES ✓	YES ✓
	Information on the rights and obligations attached to the cryptoasset	YES ✓	YES ✓	YES ✓
	Information on the underlying technology	YES ✓	YES ✓	YES ✓
	Information on the risks	YES ✓	YES ✓	YES ✓
	Information on the right of withdrawal	NO ✗	NO ✗	YES ✓
	Information on the reserve of assets	YES ✓	NO ✗	NO ✗
	Information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the cryptoasset	YES ✓	YES ✓	YES ✓
	The identity of the person other than the issuer that offers to the public or seeks admission to trading and the reason why that particular person offers that cryptoasset or seeks its admission to trading	YES ✓	YES ✓	YES ✓
Where the white paper is not drawn up by the issuer, the identity of the person that drew up the white paper and the reason why that particular person drew it up	YES ✓	NO ✗	YES ✓ (also including information about the operator of the trading platform in cases where it draws up the white paper)	

Obligation	Cryptoasset		
	ART	EMT	Other cryptoasset
All information must be fair, clear and not misleading, without material omissions, and in concise and comprehensible form	YES ✓	YES ✓	YES ✓
A statement that the white paper has not been approved	NO ✗	YES ✓ This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The issuer of the crypto-asset is solely responsible for the content of this crypto-asset white paper.	YES ✓ This crypto-asset white paper has not been approved by any competent authority in any Member State of the European Union. The offeror of the crypto-asset is solely responsible for the content of this crypto-asset white paper. (where the white paper is drawn up by the person seeking admission to trading or by an operator of a trading platform, then, instead of 'offeror', a reference to 'person seeking admission to trading' or 'operator of the trading platform' should be included)
Must not contain assertions as to future value	YES ✓	NO ✗	YES ✓
A clear statement/warning that the cryptoasset may lose its value in part or in full	YES ✓	NO ✗	YES ✓
A clear statement/warning that the cryptoasset may not always be transferable	YES ✓	NO ✗	YES ✓
A clear statement/warning that the cryptoasset may not be liquid	YES ✓	NO ✗	YES ✓
Where the offer concerns a utility cryptoasset, a clear statement/warning that the utility cryptoasset may not be exchangeable against the good or service promised in the white paper, especially in the case of a failure or discontinuation of the cryptoasset project	NO ✗	NO ✗	YES ✓
A clear statement/warning that the cryptoasset is not covered by investor compensation schemes or deposit guarantee schemes	YES ✓	YES ✓	YES ✓

Obligation	Cryptoasset		
	ART	EMT	Other cryptoasset
A statement from the issuer's management body confirming that the white paper complies with MiCAR requirements	YES ✓	YES ✓	YES ✓ (from the management body of the offeror, the person seeking admission to trading or the operator of the trading platform)
A summary in brief and non-technical language providing key information about the offer or the intended admission to trading, together with warnings that the white paper is not a prospectus for financial instruments or any other offer document	YES ✓ The summary must also state that the holders of ARTs have a right of redemption at any time, and the conditions for such redemption.	YES ✓ The summary must also state that holders of the EMT have a right of redemption at any time and at par value as well as the conditions for redemption.	YES ✓
The date of its notification and a table of contents	YES ✓	YES ✓	YES ✓
Drawn up in the official language of the home (and host, where relevant) Member State or a language customer in the sphere of international finance (English)	YES ✓	YES ✓	YES ✓
Made available in a machine-readable format	YES ✓	YES ✓	YES ✓
Published on the issuer's website	YES ✓ (after approval and by the starting date of the offer to the public or the admission to trading)	YES ✓ (before offering the EMT or seeking an admission to trading)	YES ✓ Publication must be on the website of offerors and persons seeking admission to trading, and take place a reasonable time in advance of, and in any event before the starting date of, the offer or the admission to trading.



Key contacts



United Kingdom



Mark Simpson
Partner
Mark.Simpson
@bakermckenzie.com



Melody Hoay
Associate
Melody.Hoay
@bakermckenzie.com



Sarah Williams
Associate
Sarah.Williams
@bakermckenzie.com



Kimberly Everitt
Senior
Knowledge Lawyer
Kimberly.Everitt
@bakermckenzie.com

Austria



Robert Wippel
Counsel
Robert.Wippel
@bakermckenzie.com

Belgium



Olivier Van den broeke
Associate
Olivier.Vandenbroeke
@bakermckenzie.com

Czech Republic



Jan Kolar
Associate
Jan.Kolar
@bakermckenzie.com

France



Iris Barsan
Counsel
Iris.Barsan
@bakermckenzie.com



Elisa Deuffic
Associate
Elisa.Deuffic
@bakermckenzie.com

Germany



Manuel Lorenz
Partner
Manuel.Lorenz
@bakermckenzie.com



Conrad Ruppel
Partner
Conrad.Ruppel
@bakermckenzie.com



Manuel Metzner
Counsel
Manuel.Metzner
@bakermckenzie.com

Hungary



József Vági
Partner
Jozsef.Vagi
@bakermckenzie.com

Italy



Eugenio Muschio
Partner
Eugenio.Muschio
@bakermckenzie.com

Luxembourg



Catherine Martougin
Partner
Catherine.Martougin
@bakermckenzie.com

Netherlands



Tim Alferink
Partner
Tim.Alferink
@bakermckenzie.com



Willem van Rees
Associate
Willem.vanRees
@bakermckenzie.com

Poland



Jerzy Bombczynski
Counsel
Jerzy.Bombczynski
@bakermckenzie.com

Spain



Paula De Biase
Partner
Paula.DeBiase
@bakermckenzie.com



Javier Portillo
Associate
Javier.Portillo
@bakermckenzie.com



Berta Satrustegui
Associate
Berta.Satrustegui
@bakermckenzie.com

Switzerland



Yves Mauchle
Partner
Yves.Mauchle
@bakermckenzie.com



Ansgar Schott
Partner
Ansgar.Schott
@bakermckenzie.com

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