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ANNEXES 1 to 6

## **ANNEXES**

**to the**

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL**

**on Markets in Crypto-assets, and amending Directive (EU) 2019/1937**

{SEC(2020) 306 final} - {SWD(2020) 380 final} - {SWD(2020) 381 final}

## **ANNEX I: Crypto-assets white paper for issuers of crypto-assets – minimum content**

### **Part A: General information about the issuer**

1. Issuer's name;
2. Registered address;
3. Date of the registration;
4. Legal entity identifier;
5. Where applicable, the group of undertakings to which the issuer belongs;
6. Identity, address and functions of persons belonging to the management body of the issuer;
7. The statement referred to in Article 5(5);
8. Potential conflicts of interest;
9. Details of the issuer's financial track record for the last 3 years or where the issuer has not been established for the last 3 years, the issuer's financial track record since the date of its registration. Where the offer concerns utility tokens that can be effectively exchanged for a product or service upon issuance, the issuer shall be exempted from this requirement.

### **Part B: Information about the project**

1. Name of the project or the crypto-assets (if different than the issuer's name);
2. Details of all natural or legal persons (including addresses and/or domicile of the company) involved in project implementation, such as advisors, development team and crypto-asset service providers;
3. A description of the reasons behind the issuance of crypto-assets;
4. Where the offer to the public of crypto-assets concerns utility tokens, key features of the products or services developed or to be developed;
5. Information about the project organisation, including the description of the past and future milestones of the project and, where applicable, resources already allocated to the project;
6. Where applicable, information about the planned use of funds;
7. Except for utility tokens, expenses related to the offer to the public of crypto-assets.

### **Part C: Information about the offer to the public of crypto-assets or their admission to trading on a trading platform for crypto-assets**

1. Indication on whether the whitepaper concerns an offer of crypto-assets to the public and/or an admission of crypto-assets to trading on a trading platform for crypto-assets;
2. Where applicable, the amount that the offer intends to raise in any fiat currency or in any other crypto-asset. Where applicable, any soft cap (minimum amount necessary to carry out the project) or hard cap (maximum amount of the offer to the public) set for the offer to the public of crypto-assets;
3. The issue price of the crypto-asset being offered (in fiat currency or any other crypto-assets);

4. Where applicable, the total number of crypto-assets to be offered and/or admitted to trading on a trading platform for crypto-assets;
5. Indication of the holders/purchasers that the offer to the public of crypto-assets and/or admission of such crypto-assets to trading targets, including any restriction as regards the type of purchasers or holders for such crypto-assets;
6. Specific notice that purchasers participating in the offer to the public of crypto-assets will be able to get their contribution back if the soft cap (minimum amount necessary to carry out the project) is not reached at the end of the offer to the public or if the offer is cancelled and detailed description of the refund mechanism, including the expected timeline of when such refunds will be completed;
7. Information about the various periods of the offer of crypto-assets, including information on discounted purchase price for early purchasers of crypto-assets (pre-public sales);
8. For time-limited offers, the subscription period during which the offer to the public is open and the arrangements to safeguard funds or other crypto-assets as referred to in Article 9;
9. Methods of payment to buy the crypto-assets offered;
10. For crypto-assets, other than asset-referenced tokens or e-money tokens, information on the right of withdrawal as referred to in Article 12;
11. Information on the manner and time schedule of transferring the purchased crypto-assets to the holders;
12. Where applicable, name of the crypto-asset service provider in charge of the placement of crypto-assets and the form of such placement (guaranteed or not);
13. Where applicable, name of the trading platform for crypto-assets where admission to trading is sought;
14. The law applicable to the offer to the public of crypto-assets, as well as the competent courts.

#### **Part D: Rights and obligations attached to crypto-assets**

1. The statement as referred to in Article 5(6);
2. A description of the characteristics and functionality of the crypto-assets being offered or admitted to trading on a trading platform for crypto-assets, including information about when the functionalities are planned to apply;
3. A description of the rights and obligations (if any) that the purchaser is entitled to, and the procedure and conditions for the exercise of these rights;
4. Where applicable, information on the future offers of crypto-assets by the issuer and the number of crypto-assets retained by the issuer itself;
5. Where the offer of crypto-assets or admission to trading on a trading platform for crypto-assets concerns utility tokens, information about the quality and quantity of products and/or services that the utility tokens give access to;
6. Where the offers to the public of crypto-assets or admission to trading on a trading platform for crypto-assets concerns utility tokens, information on how utility tokens can be redeemed for products or services they relate to;

7. Where an admission to trading on a trading platform for crypto-assets is not sought, information on how and where the crypto-assets can be acquired or sold after the offer to the public;
8. Any restrictions on the free transferability of the crypto-assets being offered or admitted to trading on a trading platform for crypto-assets;
9. Where the crypto-assets purport to maintain a stable value via protocols for the increase or decrease of their supply in response to changes in demand, a description of the functioning of such protocols.

**Part E: Information on the underlying technology**

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used;
2. A description of the underlying protocol's interoperability with other protocols;
3. The consensus algorithm, where applicable;
4. Incentive mechanisms to secure transactions and any fees applicable;
5. Where the crypto-assets are issued, transferred and stored on a distributed ledger that is operated by the issuer or a third-party acting on his behalf, a detailed description of the functioning of such distributed ledger;
6. Information on the audit outcome of the technology used (if any).

**Part F: Risks**

1. A description of risks associated with the issuer of crypto-assets;
2. A description of risks associated with the offer of crypto-assets and/or admission to trading on a trading venue for crypto-assets;
3. A description of risks associated with the crypto-assets;
4. A description of risks associated with project implementation;
5. A description of risks associated with the technology used as well as mitigating measures (if any).

## **Annex II: Additional information for crypto-asset white papers for issuers of asset-referenced tokens**

### **Part A: General Information about the issuer**

1. A detailed description of the governance of the issuer;
2. Except for issuers of asset-referenced tokens that are exempted from authorisation in accordance with Article 15(3), details about the authorisation as an issuer of asset-referenced tokens and name of the competent authority which granted such an authorisation.

### **Part B: Information about the project**

1. A description of the role, responsibilities and accountability of any third-party entities referred to in Article 30(5), point (h).

### **Part D: Rights and obligations attached to the crypto-assets**

1. Information on the nature and enforceability of rights, including direct redemption right and any claims that holders and any legal or natural person as referred to in Article 35(3), may have on the reserve assets or against the issuer, including on how such rights may be treated in case of insolvency procedures;
2. Where applicable, the statement as referred to in the last subparagraph of Article 17(1);
3. Where applicable, information on the arrangements put in place by the issuer to ensure the liquidity of the asset-referenced tokens, including the name of entities in charge of ensuring such liquidity;
4. A description of the complaint handling procedure and any dispute resolution mechanism or redress procedure established by the issuer of asset-referenced tokens.

### **Part F: Risks**

1. Risks related to the value of the reserve assets, including liquidity risks;
2. Risks related to the custody of the reserve assets;
3. Risks related to the investment of the reserve assets.

### **Part G: Reserve of assets**

1. A detailed description of the mechanism aimed at stabilising the value of the asset-referenced tokens, including legal and technical aspects;
2. A detailed description of the reserve assets and their composition;
3. A description of the mechanisms through which asset-referenced tokens are issued, created and destroyed;
4. Information on whether a part of the reserve assets are invested and where applicable, a description of the investment policy for the reserve assets;
5. A description of the custody arrangements for the reserve assets, including the segregation of assets, the name of credit institutions or crypto-asset service providers appointed as custodians.

### **Annex III: Whitepaper applicable to issuers of e-money tokens–minimum content**

#### **Part A: General information about the issuer**

1. Issuer's name;
2. Registered address;
3. Date of the registration;
4. Legal entity identifier;
5. Where applicable, the group of undertakings to which the issuer belongs;
6. Identity, address and functions of persons belonging to the management body of the issuer;
7. The statement as referred to in Article 46(4);
8. Potential conflicts of interest;
9. Details of the issuer's financial track record for the last three years or where the issuer has not been established for the last three years, the issuer's financial track record since the date of its registration.
10. Except for e-money issuers who are exempted from authorisation in accordance with Article 43(2), details about the authorisation as an issuer of e-money tokens and name of the competent authority which granted authorisation.

#### **Part B: Information about the project**

1. Details of all natural or legal persons (including addresses and/or domicile of the company) involved in design and development, such as advisors, development team and crypto-asset service providers;

#### **Part C: Information about the offer to the public of e-money tokens or their admission to trading**

1. Indication on whether the whitepaper concerns an offer to the public of e-money tokens to the general public and/or their admission to trading on a trading platform for crypto-assets;
2. Where applicable, the total number of e-money tokens to be offered to the public and/or admitted to trading on a trading platform for crypto-assets;
3. Where applicable, name of the trading platform for crypto-assets where the admission to trading of e-money tokens is sought.
4. The law applicable to the offer to the public of e-money tokens, as well as the competent courts.

#### **Part D: Rights and obligations attached to e-money tokens**

1. A detailed description of the rights and obligations (if any) that the holder of the e-money token is entitled to, including the right of redemption at par value as well as the procedure and conditions for the exercise of these rights;
2. Any related fees applied by the issuer of e-money tokens when the redemption right at par value is exercised by the holder of e-money tokens;

### **Part E: Information on the underlying technology**

1. Information on the technology used, including distributed ledger technology, protocols and technical standards used, allowing for the holding, storing and transfer of such e-money tokens;
2. Description of the underlying protocol's interoperability with other protocols;
3. The consensus algorithm, where applicable;
4. Incentive mechanisms to secure transactions and any fees applicable;
5. Where the crypto-assets are issued, transferred and stored on a distributed ledger that is operated by the issuer or a third-party acting on its behalf, a detailed description of the functioning of such distributed ledger;
6. Information on the audit outcome of the technology used (if any);

### **Part F: Risks**

1. Description of risks associated with the issuer of e-money tokens;
2. Description of risks associated with the e-money tokens;
3. Description of risks associated with the technology used as well as mitigating measures (if any).

### **Annex IV – Minimum capital requirements for crypto-asset service providers**

<b>Crypto-asset service providers</b>	<b>Type of crypto-asset services</b>	<b>Minimum capital requirements under Article (1)(a)</b>
Class 1	Crypto-asset service provider authorised for the following crypto-asset services: <ul style="list-style-type: none"><li>– reception and transmission of orders on behalf of third parties; and/or</li><li>– providing advice on crypto-assets; and/or</li><li>– execution of orders on behalf of third parties; and/or</li><li>– placing of crypto-assets.</li></ul>	EUR 50,000
Class 2	Crypto-asset service provider authorised for any crypto-asset services under class 1 and: <ul style="list-style-type: none"><li>– custody and administration of crypto-assets on behalf of third parties.</li></ul>	EUR 125,000
Class 3	Crypto-asset service provider authorised for any crypto-asset services under class 2 and: <ul style="list-style-type: none"><li>– exchange of crypto-assets for fiat</li></ul>	EUR 150,000

	<p>currency that is legal tender;</p> <ul style="list-style-type: none"> <li>– exchange of crypto-assets for other crypto-assets;</li> <li>– operation of a trading platform for crypto-assets.</li> </ul>	
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**Annex V – List of infringements referred to in Title III and Title VI for issuers of significant asset-referenced tokens**

1. The issuer infringes Article 21 by not notifying the EBA from any change of its business model likely to have a significant influence on the purchase decision of any actual or potential holder of significant asset-referenced tokens, or by not describing such a change in a crypto-asset white paper.
2. The issuer infringes Article 21 by not complying with a measure requested by the EBA in accordance with Article 21(3).
3. The issuer infringes Article 23(1), point (a) by not acting honestly, fairly and professionally.
4. The issuer infringes Article 23(1), point (b) by not communicating with holders of significant asset-referenced tokens in a fair, clear and not misleading manner.
5. The issuer infringes Article 23(2) by not acting in the best interests of the holders of significant asset-referenced tokens, or by giving a preferential treatment to specific holders, which is not disclosed in the issuer's white paper
6. The issuer infringes Article 24, by not publishing on its website its approved crypto-asset white paper as referred to in Article 19(1) and, where applicable, its modified crypto-asset white paper referred to in Article 21 and its marketing communications referred to in Article 25.
7. The issuer infringes Article 24 by not making the white papers publicly accessible before the starting date of the offer to the public of the significant asset-referenced tokens or the admission of those tokens to trading on a trading platform for crypto-assets.
8. The issuer infringes Article 24 by not making the crypto-asset white paper and the marketing communications available as long as the significant asset-referenced tokens are held by the public.
9. The issuer infringes Article 25(1) by publishing marketing communications, relating to an offer to the public of significant asset-referenced tokens, or to the admission of such significant asset-referenced tokens to trading on a trading platform for crypto-assets, which do not meet the requirements set out in Article 25(1), points (a) to (d);
10. In the absence of a direct claim or redemption right granted to all the holders of significant asset-referenced tokens, the issuer infringes Article 25(2) by not

including, in its marketing communications, a clear and unambiguous statement that the holders of such tokens do not have a claim on the reserve assets or cannot redeem these tokens with the issuer at any time;

11. The issuer infringes Article 26(1) by not disclosing at least every month and/or in a clear, accurate and transparent manner on their website the amount of significant asset-referenced tokens in circulation and the value and the composition of the reserve assets referred to in Article 32.
12. The issuer infringes Article 26(2) by not disclosing as soon as possible and/or in a clear, accurate and transparent manner on their website the outcome of the audit of the reserve assets referred to in Article 32.
13. The issuer infringes Article 26(3) by not disclosing in a clear, accurate and transparent manner as soon as possible any event that has or is likely to have a significant effect on the value of the significant asset-referenced tokens or the reserve assets.
14. The issuer infringes Article 27(1) by not establishing and/or maintaining effective and transparent procedures for the prompt, fair and consistent handling of complaints received from holders of significant asset-referenced tokens, or by not establishing procedures to facilitate the handling of complaints between holders and third-party entities as referred to in Article 30(5), point (h).
15. The issuer infringes Article 27(2), by not enabling the holders of significant asset-referenced tokens to file complaints free of charge.
16. The issuer infringes Article 27(3), by not developing and/or making available to the holders of significant asset-referenced tokens a template for filing complaints and/or by not keeping a record of all complaints received and any measures taken in response to those complaints.
17. The issuer infringes Article 27(4), by not investigating all complaints in a timely and fair manner and/or, by not communicating the outcome of such investigations to the holders of their significant asset-referenced tokens within a reasonable period of time.
18. The issuer infringes Article 28(1), by not maintaining and implementing effective policies and procedures to prevent, identify, manage and disclose conflicts of interest between the issuer itself and its shareholders, the members of its management body, its employees, any natural persons who either own, directly or indirectly, more than 20% of the issuer's share capital or voting rights, or who exercise, by any other means, a power of control over the said issuer, the holders of significant asset-referenced tokens, any third party providing one of the functions as referred in

Article 30(5), point (h), or any natural or legal person granted with a direct claim or a redemption right in accordance with Article 35(3).

19. The issuer infringes Article 28(1) by not taking all appropriate steps to prevent, identify, manage and disclose conflicts of interest arising from management and investment of the reserve assets.
20. The issuer infringes Article 28, paragraphs (2) to (4), by not disclosing to the holders of significant asset-referenced tokens the general nature and sources of conflicts of interest and the steps taken to mitigate those risks, or by not making this disclosure on a durable medium, or by not being sufficiently precise in the disclosure to enable the holders of significant asset-referenced tokens to take an informed purchasing decision about such tokens.
21. The issuer infringes Article 29, by not notifying to the EBA of any changes to their management body.
22. The issuer infringes Article 30(1) by not having robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control processes, including sound administrative and accounting procedures.
23. The issuer infringes Article 30(2) by having members of their management body who do not have the necessary good repute and competence, in terms of qualifications, experience and skills, to perform their duties or to ensure the sound and prudent management of the issuer.
24. The issuer infringes Article 30(5) by not adopting policies and procedure policies that are not sufficiently effective to ensure compliance with this Regulation, including compliance of its managers and employees with all the provisions of this Title, including by not establishing, maintaining and implementing any of the policies and procedures referred to in Article 30(5), points (a) to (k);
25. The issuer infringes Article 30(5) by not establishing and maintaining contractual arrangements with third-party entities as referred to in Article 30(5), point (h), that precisely set out the roles, responsibilities, rights and obligations of each of the third-party entities and the issuer, or by providing for an unambiguous choice of law for such contracts with cross-jurisdictional implications.
26. Unless they have initiated a plan as referred to in Article 42, the issuer infringes Article 30(6), by not employing appropriate and proportionate systems, resources or procedures to ensure the continued and regular performance of their services and

activities, or by not maintaining all their systems and security access protocols to appropriate Union standards.

27. The issuer infringes Article 30(7) by not identifying sources of operational risks or by not minimising those risks through the development of appropriate systems, controls and procedures.
28. The issuer infringes Article 30(8) by not establishing a business continuity policy that ensures, in case of an interruption of its systems and procedures, the preservation of essential data and functions and the maintenance of their activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its activities.
29. Unless it has been permitted to hold a lower amount of own funds in accordance with Article 31(3), the issuer infringes Article 31(1) point (a) or 41(4) by not abiding, at all times, to the own funds requirement.
30. The issuer infringes Article 31(2) where its own funds does not consist of the common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Articles 46 and 48 of that Regulation.
31. The issuer infringes Article 31(3) by not abiding to the own funds required by the competent authority, following the assessment made in accordance with Article 31(3).
32. The issuer infringes Article 32(1) by not constituting and maintaining a reserve of assets at all times.
33. The issuer infringes Article 32(3) where its management body does not ensure effective and prudent management of the reserve assets.
34. The issuer infringes Article 32(3) by not ensuring that the creation and destruction of significant asset-referenced tokens is always matched by a corresponding increase or decrease in the reserve assets and that such increase or decrease is adequately managed to avoid any adverse impacts on the market of the reserve assets.
35. The issuer infringes Article 32(4), by not having clear and/or detailed policies on the stabilisation mechanism of such tokens that do not meet the conditions set out in Article 32(4), points (a) to (g).

36. The issuer infringes Article 32(5) by not mandating an independent audit of the reserve assets every 6 months, as of the date of its authorisation.
37. The issuer infringes Article 33(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in Article 33(1) points (a) to (d) are met.
38. The issuer infringes Article 33(1) by not having a custody policy for each reserve of assets it manages.
39. The issuer infringes Article 33(2) where the reserve assets are not held in custody by a crypto-asset service provider or by a credit institution by no later than 5 business days after the issuance of the significant asset-referenced tokens.
40. The issuer infringes Article 33(3) by not exercising all due skill, care, diligence in the selection, appointment and review of credit institutions and crypto-asset service providers appointed as custodians of the reserve assets.
41. The issuer infringes Article 33(3) by not ensuring that the credit institutions and crypto-asset service providers appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.
42. The issuer infringes Article 33(3) by not having contractual arrangements with the custodians that ensure that the reserve assets held in custody are protected against claims of the custodians' creditors.
43. The issuer infringes Article 33(3) by not having custody policies and procedures that set out the selection criteria for the appointments of credit institutions or crypto-asset service providers as custodians of the reserve assets and/or by not having the procedure to review such appointments.
44. The issuer infringes Article 33(3) by not reviewing the appointment of credit institutions or crypto-asset service providers as custodians of the reserve assets on a regular basis, and/or, by not evaluating its exposures to such custodians, and/or by not monitoring the financial conditions of such custodians on an ongoing basis.
45. The issuer infringes Article 33(4) where the reserve assets are not entrusted to credit institutions or crypto-asset service providers in accordance with Article 33(4) points (a) to (d).
46. The issuer infringes Article 33(5) where the appointment of a custodian is not evidenced by a written contract, or where such a contract does not regulate the flow

of information deemed necessary to enable the issuers, the credit institutions and the crypto-assets service providers to perform their functions.

47. The issuer infringes Article 34(1) by investing the reserve assets in any products that are not highly liquid financial instruments with minimal market and credit risk or where such investments cannot be liquidated rapidly with minimal price effect.
48. The issuer infringes Article 34(2) by not holding in custody the financial instruments in which the reserve assets are held.
49. The issuer infringes Article 34(3) by not bearing all profits and losses that result from the investment of the reserve assets.
50. The issuer infringes Article 35(1), by not establishing, maintaining and implementing clear and detailed policies and procedures on the rights granted to holders of significant asset-referenced tokens.
51. Where holders of significant asset-referenced are granted rights as referred to in Article 35(1), the issuer infringes Article 35(2) by not establishing a policy that meets the conditions listed in Article 35(2), points (a) to (e).
52. Where holders of significant asset-referenced tokens are granted rights as referred to in Article 35(1), the issuer infringes Article 35(2), by not providing for fees that are proportionate and commensurate with the actual costs incurred by the issuers of significant asset-referenced tokens.
53. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(3) by not establishing a policy specifying the natural or legal persons that are provided with such rights, or by not specifying the conditions for exercising such rights, or the obligations imposed on those persons.
54. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(3) by not establishing or maintaining appropriate contractual arrangements with those natural or legal persons who are granted with such rights, or by not having contractual arrangements which do set out the roles, responsibilities, rights and obligations of the issuers and each of those natural or legal persons, or by not having an unambiguous choice of law for such contractual arrangements with cross-border implications.
55. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(4) by not putting in place a mechanism to ensure the liquidity of the significant asset-referenced tokens.

56. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(4) by not establishing or maintaining written agreements with crypto-asset service providers, or by not ensuring that a sufficient number of crypto-asset service providers are required to post firm quotes at a competitive price on a regular and predictable basis.
57. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(4) by not ensuring the direct redemption of such significant asset-referenced tokens in case of significant fluctuation of value of the significant asset-referenced tokens or of the reserve assets, or by not applying fees that are proportionate and commensurate with the actual costs incurred for such a redemption.
58. Where the issuer do not grant rights as referred to in Article 35(1) to all the holders of significant asset-referenced tokens, such an issuer infringes Article 35(4) by not establishing and maintaining contractual arrangements to ensure that the proceeds of the reserve assets are paid to the holders of significant asset-referenced tokens, where the issuer decides to stop operating or where it has been placed under an orderly wind-down, or when its authorisation has been withdrawn.
59. The issuer infringes Article 36 by providing for interests or any other benefits related to the length of time during which a holder of significant asset-referenced tokens holds such significant asset-referenced tokens.
60. The issuer infringes Article 41(1) by not adopting, implementing and maintaining a remuneration policy that promotes sound and effective risk management of such issuers and that does not create incentives to relax risk standards.
61. The issuer infringes Article 41(2) by not ensuring that its significant asset-referenced tokens can be held in custody by different crypto-asset service providers authorised for the service referred to in Article 3(1), point (10), on a fair, reasonable and non-discriminatory basis.
62. The issuer infringes Article 41(2) by not assessing or monitoring the liquidity needs to meet redemption requests or the exercise of rights, as referred to in Article 36, by holders of significant asset-referenced tokens.
63. The issuer infringes Article 41(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not having policy and procedures that ensure that the reserve assets have a resilient liquidity profile that enables the issuer of significant asset-referenced tokens to continue operating normally, including under liquidity stressed scenarios.

- 64. The issuer infringes Article 42(1) by not having in place a plan that is appropriate to support an orderly wind-down of their activities under applicable national law, or by not having a plan that demonstrates the ability of the issuer of significant asset-referenced tokens to carry out an orderly wind-down without causing undue economic harm to the holders of significant asset-referenced tokens or to the stability of the markets of the reserve assets.
- 65. The issuer infringes Article 42(2) by not having a plan that includes contractual arrangements, procedures or systems ensuring that the proceeds from the sale of the remaining reserve assets are paid to the holders of the significant asset-referenced tokens.
- 66. The issuer infringes Article 42(2) by not reviewing or updating the plan regularly.
- 67. Unless the conditions of Article 77(2) are met, the issuer infringes Article 77(1) by not informing the public as soon as possible of inside information, which concerns that issuer, in a manner that enables easy and widespread access to that information and its complete, correct and timely assessment by the public.



**Annex VI: List of infringements referred to in Title III for issuers of significant electronic money tokens**

1. The issuer infringes Article 33(1) by not establishing, maintaining or implementing custody policies, procedures and contractual arrangements that ensure at all times that the conditions listed in Article 33(1), points (a) to (d) are met.
2. The issuer infringes Article 33(1) by not having a custody policy for each reserve of assets it manages.
3. The issuer infringes Article 33(2) where the reserve assets are not held in custody by a crypto-asset service provider or by a credit institution by no later than 5 business days after the issuance of the significant e-money tokens.
4. The issuer infringes Article 33(3) by not exercising all due skill, care, diligence in the selection, appointment and review of credit institutions and crypto-asset service providers appointed as custodians of the reserve assets.
5. The issuer infringes Article 33(3) by not ensuring that the credit institutions and crypto-asset service providers appointed as custodians of the reserve assets have the necessary expertise and market reputation to act as custodians of such reserve assets.
6. The issuer infringes Article 33(3) by not having contractual arrangements with the custodians that ensure that the reserve assets held in custody are protected against claims of the custodians' creditors.
7. The issuer infringes Article 33(3) by not having custody policies and procedures that set out the selection criteria for the appointments of credit institutions or crypto-asset service providers as custodians of the reserve assets and/or the procedure to review such appointments.
8. The issuer infringes Article 33(3) by not reviewing the appointment of credit institutions or crypto-asset service providers as custodians of the reserve assets on a regular basis, and/or, by not evaluating its exposures to such custodians, and/or monitoring the financial conditions of such custodians on an ongoing basis.
9. The issuer infringes Article 33(4) where the reserve assets are not entrusted to credit institutions or crypto-asset service providers in accordance with Article 33(4), points (a) to (d).
10. The issuer infringes Article 33(5) where the appointment of a custodian is not evidenced by a written contract, or where such a contract does not regulate the flow

of information deemed necessary to enable the issuers and the credit institutions and the crypto-assets service providers to perform their functions.

11. The issuer infringes Article 34(1) by investing the reserve assets in any products that are not highly liquid financial instruments with minimal market and credit risk or where such investments cannot be liquidated rapidly with minimal price effect.
12. The issuer infringes Article 34(2) by not holding the financial instruments in which the reserve assets are held in custody in accordance with Article 33.
13. The issuer infringes Article 34(3) by not bearing all profits and losses that result from the investment of the reserve assets.
14. The issuer infringes Article 41(1) by not adopting, implementing and maintaining a remuneration policy that promotes sound and effective risk management of such issuers and that does not create incentives to relax risk standards.
15. The issuer infringes Article 41(2) by not ensuring that its significant e-money tokens can be held in custody by different crypto-asset service providers authorised for the service referred to in Article 3(1) point (10), on a fair, reasonable and non-discriminatory basis.
16. The issuer infringes Article 41(3) by not establishing, maintaining or implementing a liquidity management policy and procedures or by not having policy and procedures that ensure that the reserve assets have a resilient liquidity profile that enable the issuer to continue operating normally, including under liquidity stressed scenarios.
17. Unless it has been permitted to hold a lower amount of own funds in accordance with Article 31(3), the issuer infringes Article 41(4) by not abiding, at all times, to the own funds requirement.
18. The issuer infringes Article 31(2) where its own funds does not consist of the common Equity Tier 1 items and instruments referred to in Articles 26 to 30 of Regulation (EU) No 575/2013 after the deductions in full, pursuant to Article 36 of that Regulation, without the application of threshold exemptions referred to in Articles 46 and 48 of that Regulation.
19. The issuer infringes Article 31(3) by not abiding to the own funds required by the competent authority, following the assessment made in accordance with Article 31(3).

20. The issuer infringes Article 42(1) by not having in place a plan that is appropriate to support an orderly wind-down of their activities under applicable national law, or by not having a plan that demonstrates the ability of the issuer of significant e-money tokens to carry out an orderly wind-down without causing undue economic harm to the holders of significant e-money tokens or to the stability of the markets of the reserve assets.
21. The issuer infringes Article 42(2) by not having a plan that includes contractual arrangements, procedures or systems ensuring that the proceeds from the sale of the remaining reserve assets are paid to the holders of the significant e-money tokens.
22. The issuer infringes Article 42(2) by not reviewing or updating the plan regularly.
23. Unless the conditions of Article 77(2) are met, the issuer infringes Article 77(1) by not informing the public as soon as possible of inside information, which concerns that issuer, in a manner that enables easy and widespread access to that information and its complete, correct and timely assessment by the public.