

## The SAFE Regulatory Radar in October

New regulation on crypto-assets, disclosure of taxonomy-aligned gas and nuclear activities, and uniform treatment of over-the-counter derivatives data



**A** *t the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at the national and EU level.*

### MiCA: Regulating certain crypto assets activities

Issuers and service providers of asset-referenced tokens, e-money tokens, and utility tokens will be subject to a comprehensive regulatory framework when these crypto-assets are issued, placed, provided, and redeemed. On 10 October 2022, the European Parliament Committee on Economic Affairs endorsed the compromise text of the Regulation on Markets in Crypto-assets (MiCA). Five days before, an interinstitutional agreement of the Council's Permanent Representatives' Committee was reached following the provisional political stipulation of July 2022. MiCA affects issuers and service providers of

- asset-referenced tokens (ARTs) that aim at stabilizing their value by referencing to any other value or right, or a combination thereof, including one or several official currencies,
- e-money tokens (EMTs) that aim at stabilizing their value by referencing to only one official currency,
- utility tokens that are neither ARTs nor EMTs,

to a different degree along their various functions – from issuance to redemption.

*Issuing crypto-assets:* Issuers of ARTs and issuers of EMTs must be formally authorized by competent authorities. To obtain authorization, the former must possess own funds equal to an amount of at least the highest of 350,000€, a quarter of the fixed overheads of the preceding year, or 2% of the average amount of their reserve assets. The latter must meet the requirements to become a credit institution under the Capital Requirements Directive or an electronic money institution under the E-Money Directive. In contrast, issuers of utility tokens require no official pre-authorization.

*Placing crypto-assets:* Before crypto assets are offered or admission to trading on a trading platform is sought, all crypto-asset issuers must publish a crypto-asset white paper. The white paper contains information on the issuer, the crypto-asset project, risks, rights and obligations, the non-coverage by deposit guarantee or investor compensation schemes, and underlying technologies, inter alia. Additionally, the principal adverse environmental and climate-related impact of the consensus mechanism used to issue the crypto-asset must be assessed. The document shall clearly and unambiguously state that the crypto asset may lose its value in part or in full, not be always transferable, and not be liquid.

*Providing services related to crypto-assets:* Crypto-asset service providers shall provide their clients with fair and not misleading (marketing) information, make their pricing, costs, and fees publicly available, and must hire members of the management body with sufficient repute, knowledge, and experience. They shall have in place prudential safeguards in the amount of either the permanent minimum requirements or one-quarter of the fixed overheads of the preceding year – whichever is higher. To reduce the risk of crypto-assets being used to store value, service providers shall not grant interest.

**Redeeming crypto-assets:** Issuers of [ARTs](#) and [EMTs](#) must secure the aggregate value of claims through investing the received funds in secure, low risk reserve assets with minimal market, concentration, and credit risk. The amount being referenced to an official currency must be deposited in credit institutions to at least 30%. [ARTs](#) are redeemable against funds in any currency other than e-money or by delivering the referenced asset, whereas [EMTs](#) can be redeemed against funds denominated in the same official currency at any moment.

[MiCA](#) is to be confirmed by the European Parliament and is unlikely to be applied before 2024.

### SFDR: Separate disclosure of taxonomy-aligned gas and nuclear activities

Financial market participants will have to disclose taxonomy-aligned investments in gas and nuclear separately under the Sustainable Finance Disclosure Regulation (SFDR). On 30 September 2022, the European Supervisory Authorities (ESAs) fulfilled their [mandate](#) by publishing their final [draft regulatory technical standards](#) (RTS) on the information about the exposure of financial products to investments in fossil gas and nuclear energy activities. As certain fossil gas and nuclear energy activities were previously classified as environmentally sustainable by the Taxonomy Complementary Climate Delegated Act (CDA), transparency requirements under the [SFDR](#) had to be amended. These draft amendments to [Delegated Regulation \(EU\) 2022/1288](#) thus aim at providing full transparency about [taxonomy-aligned investments](#) in fossil gas and nuclear energy activities mainly through the information provided.

Pre-contractual and periodic templates must clearly disclose whether the financial product intends to invest or invested in gas and/or nuclear taxonomy-aligned activities in the form of a yes or no question. It is accompanied by a standardized footnote indicating the conditions for taxonomy alignment. If investments in fossil gas or nuclear energy

- are intended, their relative share in the overall investment must be graphically represented and highlighted in a pie chart, along with the overall proportion of taxonomy-aligned investments, ex ante;
- were made, their relative share in the turnover, the capital expenditure, and the operational expenditures of the investee companies must be presented in a bar chart, along with the overall proportion of taxonomy-aligned investments, ex post.

Both changes reflect the feedback from closed consultations of [ESAs'](#) stakeholder groups and consumer associations. Given that the [CDA](#) and [SFDR](#) will apply from 1 January 2023 onwards, the [ESAs](#) propose that the [RTS](#) of the [SFDR](#), including its amendments, shall enter into force one day – and not the usual 20 days – after being published in the Official Journal. Earlier this month, the interpretation of taxonomy-eligible activities, data and usability as part of Taxonomy reporting and functioning of the [minimum safeguards](#) was eased by the European Commission, in particular, its Sustainable Finance Platform.

### EMIR: Data of over-the-counter derivatives trades must be uniformly processed

Repositories of over-the-counter derivatives trades will have to receive, process, transmit, verify, and reconcile details of derivatives in a uniform manner under the [European Market Infrastructure Regulation](#) (EMIR). To mitigate systemic risk by increasing transparency and safety of over-the-counter derivatives trading, four Regulatory Technical Standards (RTS) and two Implementing Technical Standards (ITS) were published in the Official Journal on 7 October 2022. The final [RTS](#) and [ITS](#) lay down how trade repositories must handle data when a derivative transaction is concluded, modified, or terminated. They specify the

- [minimum details of the derivative data](#) to be received from central counterparties, such as its notional amount and price, and the type of derivative reporting, including its data standards, formats, frequency, and methods, to properly monitor the concentration of exposures;
- [procedure for accessing the details of derivatives](#) by authorities, including operational (e.g. instructions) and technical (e.g. XML format templates) arrangements, to reduce administrative burden through standardization and harmonization;
- [application for registration as trade repository](#) by verifying the completeness and correctness of data and proofing the payment of the applicable fees using a [uniform format](#) to ensure regulatory compliance;
- [verification and reconciliation](#) of the derivative data to guarantee its high quality.

Most of the regulation shall apply from 29 April 2024.

#### Current public consultations:

- **European Securities and Market Authority (ESMA):** Call for evidence to collect information from market participants and map the state of play with regards to the implementation of the revised Shareholders Rights Directive (SRD2) provisions on the identification of shareholders, transmission of information and facilitation of exercise of shareholder rights, as well as on the transparency of proxy ad-visors. The deadline is Monday, 28 November 2022.
- **European Banking Authority (EBA):** Call for interest to join two Technical Expert Group on [crypto assets service providers and anti-money laundering](#) and on [countering the financing of terrorism and restrictive measures regimes](#). The deadline is Friday, 4 November 2022.
- **EBA:** Call for input on practical issues that financial institutions experienced when complying with the ESA's Joint Guidelines to prevent the abuse of fund transfers for money laundering and terrorism financing. The deadline is Tuesday, 15 November 2022.

---

*Carl-Georg Luft is Research Assistant at the SAFE Policy Center.*



**BACK**

All News

---

SAFE Finance Blog

---

Events

---

Videos

---

SAFE in the media

---

Newsletter

---

Research Magazine Points

---

Distribution List

In this Section:

## FOLLOW US



## CONTACT

Leibniz Institute for  
Financial Research SAFE

Theodor-W.-Adorno-Platz 3  
60323 Frankfurt am Main

Phone: +49 69 798 30080

Fax: +49 69 798 30077

Email: [info@safe-frankfurt.de](mailto:info@safe-frankfurt.de)

### SAFE

[About SAFE](#)

[Job Offers](#)

[How to find us](#)

### POLICY CENTER

[SAFE Senior Fellows](#)

[Policy Publications](#)

[SAFE Finance Blog](#)

[Policy Center Team](#)

### RESEARCH

[Research Departments](#)

[Researchers](#)

[Data Center](#)

### NEWS & EVENTS

[All News](#)

[Press](#)

[Expert List](#)

