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Additional Information

Level 1 Regulation
MiCA

Topic
Issuer of crypto assets

Additional Legal Reference
Article 4, Paragraph 5

Subject Matter
Authorised CASP for providing custody and administration or transfer services for crypto-assets in relation to other crypto-assets being issued after the offer to the public

Question

According to Article 4(5) of MiCA, crypto-asset transfer services are exempt from requiring CASP authorization if they are linked to public offerings that qualify as exempt under Article 4(3) (with exceptions). However, the wording leaves room for interpretation as to whether it is mandatory for issuers to either be authorized or subcontract with a CASP for transfer services in the case of non-exempt public offerings. To provide greater legal certainty for the primary market, it would be helpful to clarify the following:

Can the issuer itself conduct a public offering of a crypto-asset other than asset-referenced tokens or e-money tokens, transferring the tokens directly from the issuance smart contract to a personal wallet, without being required to obtain CASP authorization or subcontract custody and transfer services under an authorized CASP, even if the offering does not fall under the exemptions of Article 4(3) as referenced in Article 4(5)?

ESMA Answer

18-06-2026

Original language

Yes. Artice 3(1)17) defines custody services as “the safekeeping or controlling, on behalf of clients, of crypto-assets or of the means of access to such crypto-assets...”. In turn, Article 3(1)(26) of MiCA defines the provision of “transfer services for crypto-assets on behalf of clients” as the provision of “services of transfer, on behalf of a natural or legal person, of crypto-assets from one distributed ledger address or account to another”. Where an issuer, in the context of the primary issuance of its token, sends the issued crypto-assets to the wallet /account of the persons having purchased them, they are not conducting transfer services or custody services on behalf of another person.??