

Newsletter



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EBA Opinion on the Interplay between MiCAR and PSD2

On 12 February 2026, the European Banking Authority (EBA) released an Opinion addressing the conclusion of the nine-month transition period established under the EBA's June 2025 No Action Letter (NAL). The guidance addresses the interplay between the Payment Services Directive 2 (PSD2) and the Markets in Crypto-Assets Regulation (MiCAR). The NAL provided a streamlined pathway for Crypto-Asset Service Providers (CASPs) conducting electronic money token (EMT) transactions to obtain payment services authorisation, with the transition period ending on 2 March 2026.



Regulatory Context

EMTs occupy a dual regulatory category, falling within MiCAR's crypto-asset framework while simultaneously constituting electronic money under PSD2. This dual classification, referenced in MiCAR's preparatory materials, creates intersecting compliance obligations for service providers. The NAL responded by limiting the scope of affected activities and permitting regulators to rely on previously submitted MiCAR materials when processing payment services applications.

Core Three-Scenario Framework

The Opinion establishes a three-scenario framework for CASPs at the transition period's end:

Scenario 1: Authorised Operations CASPs that have secured authorisation as Payment Institutions (PIs) or Electronic Money Institutions (EMIs) or partnered with authorised Payment Service Providers (PSPs), may continue EMT transaction services in line with their authorisation scope.



Scenario 2: Pending Applications. For CASPs with submitted but undetermined applications, the EBA permits continued operations subject to four cumulative conditions: (a) complete application submission with all required documentation; (b) exhaustive and expeditious responses to NCA queries; (c) satisfactory supervisory record with no material infringements under MiCAR or AML frameworks; and (d) preliminary assessment indicating approval within a short time frame.

Notably, the EBA imposes operational restrictions on these entities: they must cease EMT-related marketing and cannot onboard new clients for qualifying payment services until authorisation is granted. These restrictions do not apply to CASPs benefiting from national transitional regimes under Article 143(3) MiCAR until 1 July 2026.

Scenario 3: Non-Compliant Entities CASPs failing to submit applications or meet Scenario 2 conditions must cease all EMT payment services and terminate relevant operations effective 2 March 2026, with PSD2 and MiCAR competent authorities coordinating enforcement.

Supervisory Coordination Requirements

The EBA mandates enhanced cooperation between national competent authorities under PSD2 and MiCAR, including joint imposition of restrictions and coordinated enforcement actions, reflecting the EBA's statutory mandate to ensure consistent supervisory practices across the Union. This Opinion represents a pivotal regulatory milestone in the convergence of crypto-asset and payment services supervision, balancing business continuity with consumer protection during the MiCAR implementation phase.



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