

ELECTRONIC SUBMISSION OF CRYPTO-ASSETS WHITE PAPERS

As defined in Title II MiCAR

Team: Capital Market Prospectuses

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1 REGISTRATION

Under the MiCA Regulation Enforcement Act (MiCA-VVG; *MiCA-Verordnung-Vollzugsgesetz*), the FMA is the competent authority for the filing of crypto-asset white papers in accordance with Title II of Regulation (EU) 2023/1114 (MiCAR). Documents must be submitted electronically via the FMA's electronic submission portal - the Secure Electronic Prospectus Portal (SEPP).

To obtain access credentials for the electronic submission portal, it is first of all necessary for the party submitting the white paper to register using this link <https://webhost.fma.gv.at/epass2/Registration/Registration>. Following the entry into force of the SEPP Regulation (SEPP-V) on 1 January 2025 the identification and authentication of the submitter can also take place using ID Austria. The account can be linked under the menu item "Mein Account" (my account).

Instructions about how to register and for linking the account with ID Austria can be found under "Documents" at <https://www.fma.gv.at/en/capital-markets/prospectus-supervision/approval-procedures/>.

2 SUBMITTING A CRYPTO-ASSET WHITE PAPER IN ACCORDANCE WITH TITLE II MICAR

Submission of the crypto-asset white paper to the FMA triggers the deadline stated in Article 8 (5) MiCAR for publication and the start of the public offering. The deadline is 20 working days.

The individual fields for the electronic application are described below. Details marked with an asterisk (*) in the form are required to be filled out.

2.1 REPRESENTING THE ISSUER

For every submission, the submitter of the crypto-asset white paper is required to state in which capacity he/she is making the submission. In the case of lawyers admitted to practise in Austria, it is generally sufficient to refer to having been granted power of attorney. If someone is acting as the submitter (e.g. employees of the issuer, advisers etc.) then a power of attorney must be submitted to the FMA. A sample power of attorney can be found under Documents on the page <https://www.fma.gv.at/en/cross-sectoral-topics/markets-in-crypto-assets-regulation-micar/issuance-of-crypto-assets-other-than-arts-or-emts/>.

One of the following options must be selected:

- attorney registered in accordance with Article 5 of the Attorneys Code (RAO; *Rechtsanwaltsordnung*) who has a power of attorney for the applicant
- associate lawyer representing an attorney registered in accordance with Article 5 RAO who has a power of attorney for the applicant
- legal assistant (the power of attorney must be submitted electronically)

- representative of the applicant (the power of attorney must be submitted electronically)
- employee of the applicant (the power of attorney must be submitted electronically)

2.2 INFORMATION ABOUT THE ISSUER

2.2.1 LEGAL ENTITY IDENTIFIER (LEI)

The issuer's Legal Entity Identifier (LEI) is to be included in the prospectuses and registration forms. By entering the LEI and clicking on "*LEI laden*" (insert LEI) all fields except for the Commercial Register number (*Firmenbuchnummer*) are automatically filled out. The Commercial Register number (*Firmenbuchnummer*) is required to be added manually. Furthermore, a contact person for the issuer must also be named.

2.3 DELIVERY METHOD (*ZUSTELLART*)

Electronic delivery using a delivery service (*elektronische Zustellung über einen Zustelldienst*) must be selected as the delivery method. Where this is not possible, the FMA must be informed in advance that this is the case.

2.4 INFORMATION ABOUT THE CRYPTO-ASSET

2.4.1 PUBLIC OFFERING AND ADMISSION

The appropriate items are to be selected under the point "Public offering and admission" (*Öffentliches Angebot und Zulassung*), and it is possible to select multiple items:

- Public offering in Austria
- Public offering in the EEA
- Admission to trading in Austria
- Admission to trading in the EEA

2.4.2 IS A UTILITY TOKEN BEING OFFERED?

Under point 9 of Article 3 (1) MiCAR, a "utility token" means a type of crypto-asset that is only intended to provide access to a good or a service supplied by its issuer.

Under Article 4 (6) MiCAR the offer to the public concerning a utility token shall not exceed 12 months from the date of publication of the crypto-asset white paper.

2.4.3 NOTIFICATION

If crypto-assets are also offered in one or more other EEA Member States, then these Member States must be selected in the list.

2.4.4 START OF OFFER OR ADMITTANCE AS WELL AS PUBLICATION DATE

The date on which the offer to the public and admittance begins as well as the publication date of the crypto-asset white paper must be stated. The crypto-asset white paper and any marketing communications must be published in a timely manner, in any case prior to the start date of the public offering or admittance to trading.

2.4.5 FURTHER INFORMATION ABOUT THE WHITE PAPER

In addition to the aforementioned information, the information about the white paper must also contain information about the relevant language and the ISIN.

2.5 DOCUMENTS

The accompanying documents for the application must be uploaded in this point, and allocated to the following categories:

- White paper
- Marketing communications
- Confirmation of payment
- Explanations pursuant to Article 8 (4) MiCAR
- Power of attorney
- Other documents

The maximum aggregate file size is 100 Mb in total for all documents for a submission.

2.6 DECLARATIONS AND NOTES

The following declarations must be submitted when submitting a crypto-asset white paper:

- I hereby confirm that the filing fee has already been paid into the account held at the Oesterreichische Nationalbank (IBAN AT550010000000115525, BIC NABAATWW), payee *“Finanzmarktaufsichtsbehörde gemäß Finanzmarktaufsichtsgesetz, BGBl. I Nr. 97/2001 – Subkonto für Gebühreneinnahmen”*.
- I hereby confirm that the confirmation of payment has been uploaded under documents (*Dokumente*).

The fee for filing the crypto-asset white paper is EUR 750.00.

2.7 SUBMISSION

If all information has been filled out completely and all documents have been uploaded, then the initial submission can be completed by clicking on “save” (*Speichern*). A pop-up will appear saying that it has been successfully submitted, and in addition a confirmation mail will be sent to the submitter’s e-mail address.

2.8 RESUBMITTING A CRYPTO-ASSET WHITE PAPER

2.8.1 REPRESENTING THE ISSUER

For every resubmission, the submitter is required to state in which capacity he/she is making the submission. In the case of attorneys admitted to practice in Austria, it is generally sufficient to refer to them having been granted power of attorney. If someone else is acting as the submitter (e.g. employees of the issuer, advisers etc.) then a power of attorney is required to be submitted to the FMA once (as a rule with the submission of the crypto-asset white paper).

One of the following options must be selected:

- attorney registered in accordance with Article 5 of the Attorneys Code (RAO; *Rechtsanwaltsordnung*) who has a power of attorney for the applicant
- associate lawyer representing an attorney registered in accordance with Article 5 RAO who has a power of attorney for the applicant
- legal assistant (the power of attorney must be submitted electronically)
- representative of the applicant (the power of attorney must be submitted electronically)
- employee of the applicant (the power of attorney must be submitted electronically)

2.8.2 DOCUMENTS

The accompanying documents for the application must be uploaded in this point, and allocated to the following categories:

- White paper
- Marketing communications
- Explanations pursuant to Article 8 (4) MiCAR
- Power of representation
- Other documents

The maximum aggregate file size is 100 Mb in total for all documents for a submission.

2.8.3 SUBMISSION

If all information has been filled out completely and all documents have been uploaded, then the resubmission can be completed by clicking on “save” (*Speichern*). A pop-up will appear saying that it has been successfully submitted, and in addition a confirmation mail will be sent to the submitter’s e-mail address.

3 SUBMISSION OF A MODIFICATION OF A CRYPTO-ASSET WHITE PAPER PURSUANT TO ARTICLE 12

Offerors of crypto-assets other than ARTs and EMTs as defined in Title II MiCAR, persons applying for the admission to trading of such crypto-assets, or operators of trading platforms for crypto-assets must always modify their published crypto-asset white papers and any marketing communications that may have been published, if a material factor, a material error or material inaccuracy occurs, that may influence the valuation of the crypto-asset. The requirement applies for the duration of the offer to the public or for the duration of the crypto-asset's admission to trading.

The individual fields for the electronic application are described below. Details marked with an asterisk (*) in the form are required to be filled out.

3.1 REPRESENTING THE ISSUER

For every resubmission of a prospectus the prospectus submitter is required to state in which capacity he/she is submitting the prospectus. In the case of lawyers admitted to practise in Austria, it is generally sufficient to refer to having been granted power of attorney. If someone else is acting as the prospectus submitter (e.g. employees of the issuer, advisers etc.) then a power of attorney is required to be submitted to the FMA once (as a rule with the submission of the crypto-asset white paper).

One of the following options must be selected:

- attorney registered in accordance with Article 5 of the Attorneys Code (RAO; *Rechtsanwaltsordnung*) who has a power of representation for the applicant
- associate lawyer representing an attorney registered in accordance with Article 5 RAO who has a power of attorney for the applicant
- legal assistant (the power of attorney must be submitted electronically)
- representative of the applicant (the power of attorney must be submitted electronically)
- employee of the applicant (the power of attorney must be submitted electronically)

3.2 NOTIFICATION

If crypto-assets are also offered in one or more other EEA Member States, then these Member States must be selected in the list.

3.3 PUBLICATION DATE

The publication of the modified crypto-asset white paper shall only be allowed to occur at earliest seven days following submission.

3.4 REASONS FOR THE MODIFICATIONS

In the supplement that is to be approved, one of the following options is to be chosen as the reason for publication:

- significant new factor
- material mistake
- material inaccuracy

Multiple options may be selected.

3.5 DOCUMENTS

The accompanying documents for the application must be uploaded in this point, and allocated to the following categories:

- Modified crypto-asset white paper
- Modified marketing communications
- Reasons for the modifications
- Power of representation
- Other documents

The maximum aggregate file size is 100 Mb in total for all documents for a submission.

3.6 DECLARATIONS AND NOTES

The following declarations must be submitted when submitting a crypto-asset white paper:

- I hereby confirm that the filing fee has already been paid into the account held at the Oesterreichische Nationalbank (IBAN AT550010000000115525, BIC NABAATWW), payee *“Finanzmarktaufsichtsbehörde gemäß Finanzmarktaufsichtsgesetz, BGBl. I Nr. 97/2001 – Subkonto für Gebühreneinnahmen”*.
- I hereby confirm that the confirmation of payment has been uploaded under documents (*Dokumente*).

The fee for filing a modified crypto-asset white paper is EUR 500.00.

3.7 SUBMISSION

If all information has been filled out completely and all documents have been uploaded, then the submission can be completed by clicking on “save” (*Speichern*). A pop-up will appear saying that it has been successfully submitted, and in addition a confirmation mail will be sent to the submitter’s e-mail address.

3.8 RESUBMISSION OF A SUPPLEMENT TO A SINGLE-PART PROSPECTUS

3.8.1 REPRESENTING THE ISSUER

For every resubmission, the submitter is required to state in which capacity he/she is making the submission. In the case of lawyers admitted to practise in Austria, it is generally sufficient to refer to having been granted power of attorney. If someone else is acting as the submitter (e.g. employees of the issuer, advisers etc.) then a power of attorney is required to be submitted to the FMA once (as a rule with the submission of the crypto-asset white paper).

One of the following options must be selected:

- attorney registered in accordance with Article 5 of the Attorneys Code (RAO; *Rechtsanwaltsordnung*) who has a power of representation for the applicant
- associate lawyer representing an attorney registered in accordance with Article 5 RAO who has a power of attorney for the applicant
- legal assistant (the power of attorney must be submitted electronically)
- representative of the applicant (the power of attorney must be submitted electronically)
- employee of the applicant (the power of attorney must be submitted electronically)

3.8.2 DOCUMENTS

The accompanying documents for the resubmission must be uploaded in this point, and allocated to the following categories:

- White paper
- Marketing communications
- Explanations pursuant to Article 8 (4) MiCAR
- Power of representation
- Other documents

The maximum aggregate file size is 100 Mb in total for all documents for a submission.

3.8.3 SUBMISSION

If all information has been filled out completely and all documents have been uploaded, then the resubmission can be completed by clicking on “save” (*Speichern*). A pop-up will appear saying that it has been successfully submitted, and in addition a confirmation mail will be sent to the submitter’s e-mail address.