

# **Which Payment Services do Crypto Custodians Provide with EMT?**

# Introduction to Crypto Custody and E-Money Tokens (EMT)

## MiCAR Regulation

Crypto asset custody has been regulated as a crypto asset service under the Markets in Crypto Assets Regulation (MiCAR) since the end of last year.

## Licensing Requirements

Providers must obtain a license in accordance with Art. 62 MiCAR from their competent supervisory authority (e.g., BaFin in Germany) to hold crypto assets for clients.

## What Can Licensed Custodians Hold?

With such a license, crypto custodians are authorized to hold all tokens that qualify as crypto assets under MiCAR, including:

- **Asset-Referenced Tokens (ART)**
- **E-Money Tokens (EMT)**

## Understanding Stablecoins

ART and EMT are both stablecoins, designed to achieve value stability by referring to another stable value.



### **EMT Specifics:** E-Money

Tokens are specifically characterized by their reference value being a single official currency, such as the euro, US dollar, or Swiss franc.

# Regulatory Classification of E-Money Tokens (EMT)

01

## MiCAR Classification

EMT are classified as crypto assets under MiCAR

02

## E-Money Directive

Also classified as e-money within the meaning of the Second E-Money Directive (2009/110/EC)

03

## PSD2 Funds

Considered funds within the meaning of the Second Payment Services Directive (PSD2), recently reaffirmed by the EBA

**Dual Classification Impact:** This dual classification leads to additional regulatory issues for crypto custodians when storing e-money tokens for their customers.

1

### Current Period

EBA no-action letter advises member state supervisory authorities to only require market participants to comply with PSD2 obligations after March 2, 2026

2

### March 2, 2026

Full compliance with ZAG (German implementation of PSD2) becomes mandatory

3

### Preparation Phase

Crypto custodians should already start preparing for a ZAG license in anticipation of the period following March 2, 2026

# Payment Services in the Custody of E-Money Tokens (EMT)

Crypto custodians who offer customers the option of keeping EMT in their wallets, sending it, or receiving it from other wallets, will then also be providing payment services.

**1**

## Placement of Funds on Payment Account

Section 1 (1) sentence 2 no. 1 ZAG

Receiving EMT deposits into customer wallets

**2**

## Withdrawal of Funds from Payment Account

Section 1 (1) sentence 2 no. 2 ZAG

Processing EMT withdrawals from customer wallets

**3**

## Payment Transactions (No Credit)

Section 1 (1) sentence 2 no. 3 ZAG

Sending EMT from customers to other wallets without credit

**4**

## Payment Transactions (With Credit)

Section 1 (1) sentence 2 no. 4 ZAG

Payment transactions involving the granting of credit



**Important Note:** Despite EBA advice to deprioritize some obligations, the basic additional licensing requirement (under ZAG) still applies in all cases.

# Alternatives to Obtaining an Own ZAG License

**1**

## Challenge: Separate ZAG License

Applying for a separate license under Section 10 (1) ZAG for payment services may not be practical in every situation.

**2**

## Management Qualification Issue

Managers qualified for crypto custody may lack professional experience in the payment services business. BaFin may require management changes or expansion.

**3**

## Alternative Solutions Available

Strategic alternatives exist to avoid direct ZAG licensing requirements.

### Option 1: Outsourcing

Have the additional payment services related to EMT custody provided by another institution via an outsourcing solution.

- Leverage existing expertise
- Reduce regulatory burden
- Maintain service quality

### Option 2: Payment Agent

The crypto custodian can become a payment agent for another payment institution, performing regulated payment services on behalf of the other institution as an independent trader.

- Partnership approach
- Shared responsibilities
- Regulatory compliance

# Conclusion and Outlook for Crypto Custodians

## Dual Regulation Preparation

Crypto custodians must prepare for the dual regulation of EMT as both a crypto asset and e-money, which brings additional requirements.

## March 2026 Deadline

From March 2, 2026 onwards, a ZAG license will likely be required for handling E-Money Tokens in business processes.

## Payment Service Classification

Providing services such as holding, sending, and receiving EMT in wallets qualifies as a payment service.

## Strategic Decision Point

There is a need to make strategic decisions: either pursue an own ZAG license or explore alternative models like outsourcing or acting as a payment agent.



### Early Preparation

Early preparation for this "second stage" of regulation after March 2, 2026, is advisable to meet the forthcoming regulatory requirements.



### Strategic Planning

Evaluate licensing options, partnership opportunities, and operational readiness for enhanced compliance requirements.

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