

The [Regulation of the European Parliament and of the Council on Markets in Crypto-assets and Amending Directive \(EU\) 2019/1937](#) provides a unified regulatory framework for crypto asset markets in the European Union (EU). In October 2022, the EU reached a political consensus on MiCA and on 20 April 2023, [MiCA was formally adopted by the European parliament](#) and is expected to be published in the official journal in the summer of 2023. Most of its provisions are expected to come into effect in January 2025 (**adoption + 20 days + 18 months**), but certain arrangements concerning asset-referenced tokens and e-money tokens will apply 12 months after the rules come into force (**adoption + 20 days + 12 months**). MiCA is expected to become the first major jurisdiction with the comprehensive regulatory framework on crypto assets.

Overall, MiCA is a comprehensive and complex new legal framework. It contains uniform rules for transparency and disclosure requirements for the issuance and admission to trading of crypto assets; for the authorization and supervision of crypto asset service providers and issuers; for the operation, organization and governance of issuers and crypto asset service providers; consumer protection rules for the issuance, trading, exchange and custody of crypto assets; and, finally, measures to prevent market abuse to ensure the integrity of crypto asset markets. In particular, MiCA aims to provide comprehensive investor protection by increasing transparency and establishing a comprehensive framework for issuers and service providers, including anti-money laundering compliance. It also addresses potential risks to financial stability by including safeguards.

To achieve this aim, MiCA contains a broad definition of a crypto asset as a digital representation of value or rights that may be transferred and stored electronically. It uses distributed ledger technology or similar technology by differentiating among the following three groups of crypto assets in relation to each, of which a separate set of regulatory requirements will apply:

- **Utility token** – A type of crypto asset designed to provide access to goods and services offered by their issuers.
- **Asset referenced token** – A crypto asset that must provide a stable value based on the value of several fiat currencies that are legal tender, commodities, crypto assets, or a combination of such assets.
- **E-money token** – A type of crypto asset that is primarily intended to be used as a means of exchange and is only linked to a nominal monetary currency for the purpose of value stabilization (for instance EUR, GBP, or US\$).

MiCA introduces the concept of “significance” in cases where Asset-referenced tokens or E-money tokens exceed certain limits of application and must meet higher prudential, managerial and liquidity requirements. They will be considered significant if they meet three of the following criteria (to be further specified):

- More than 10 million owners
- More than EUR 5 billion of market capitalization
- Number and value of transactions per day exceeds EUR 2.5 million and EUR 500 million, respectively
- Issuer is defined as a “gatekeeper” in accordance with The Digital Markets Act
- Issuer is considered internationally significant, including the use of the token for payments and remittances
- Degree of interconnection of the tokens with the financial system
- Issuer offers additional tokens or crypto asset services.

Notably, MiCA relates to those crypto assets that are not already regulated by various financial services laws in the EU. Crypto assets that qualify as other regulated instruments under existing financial regulations in the EU, such as transferable securities, structured deposits, e-money, or securitizations, will remain outside the scope of MiCA. Further, digital currencies issued by central banks (the so-called central bank digital currencies) or by other public international organizations (such as the International Monetary Fund) are not covered. In addition, MiCA rules will also not apply to utility tokens that provide access to an existing good or service, enabling the holder to collect the goods or use the services. This exemption does not apply if utility tokens are used for the purposes of fundraising or when the offeror of crypto assets or if another person acting on his behalf communicates an intention to seek admission to trading for exempted crypto assets or once-exempted crypto assets are admitted to trading on a trading platform.

MiCA introduces a single set of common rules applicable to persons engaging in the issuance, the offer to the public, and admission to trading of crypto assets, as well as to those who provide regulated services related to crypto assets in the EU. The provisions relate to various transparency, disclosure, authorisation and monitoring of transactions requirements. Therefore, the type of crypto asset being offered and the size of the offering will determine which provisions apply.

For instance, prior to offering such crypto assets to the public, the offerors will need to comply with several transparency, disclosure and notification requirements that ensure prospective investors in the EU are provided with sufficient information about the characteristics, risks and rights and obligations attached to crypto assets before making their investment decision. It also lays down the rules for the publication of the crypto asset white paper and potential marketing communications and the requirements for these communications. In addition, certain prudential regulations must be met when marketing crypto assets.

Crypto asset service providers must be licensed to provide crypto asset services under MiCA by the national competent authority in the EU member state in which they were established. To obtain authorization, they will need to ensure compliance with several organizational, governance, conduct and information requirements that apply to crypto asset service providers under the new regime, who are defined as legal persons (or other undertakings) whose occupation or business is the provision of one or more of the following crypto-asset services to third parties on a professional basis:

- Custody and administration of crypto assets on behalf of third parties
- Operation of trading platforms for crypto assets
- Exchange services (e.g. crypto fiat, fiat crypto, crypto crypto)
- Execution of orders in crypto assets on behalf of third parties placing crypto assets
- Reception and transmission of orders for crypto assets on behalf of third parties
- Placement of crypto assets
- Portfolio management service in relation to crypto assets
- Transfer services for crypto assets on behalf of clients that include transfer of crypto assets on behalf of a natural or legal person or from one distributed ledger address or account to another
- The provision of advice on crypto assets

In addition to the conditions for the licensing and operation of crypto service providers, the regulation contains requirements for all crypto service providers, including the obligation to act honestly, fairly, and professionally. This includes prudential safeguards, organizational requirements, rules on the safekeeping of clients' crypto assets and funds, the obligation to establish a complaint procedure and rules on conflict of interest are also relevant.

The adoption of MiCA is a very important step regarding crypto-asset regulation. It is envisaged that MiCA will be the standard of the crypto-asset regulatory framework, providing legal and regulatory certainty, as well as enhancing investor confidence, ensuring market integrity, and promoting innovation in the crypto market.

