



International Association for  
Trusted Blockchain Applications

# Markets in Crypto Assets (MiCA)

Summary of the European Commission's  
Proposal and Legislative Timeline

This document is intended to serve as an internal briefing for INATBA members only and should not be circulated externally to non-INATBA members.

# Regulatory Context

On 24 September, the European Commission (EC) published its **Digital Finance Package**, comprised of far-reaching strategies for retail payments and Digital Finance. The Commission wants to harmonise the cross-border offerings of all digital financial services in the EU and ensure that legislation is fit for purpose, under the “**same business, same risks, same rules**” principle.

## The package covers all aspects of Digital Finance:

- Data and infrastructure: review of rules for instant payments, open finance, and cross-border digital identity.
- Operations and risk: comprehensive cybersecurity requirements for all types of financial service players and their providers, and a move towards automated regulatory reporting.
- New technologies: an EU ‘sandbox’ for the use of blockchain in market infrastructure.
- New markets: all crypto tokens covered by legislation and certifying RegTech solutions.

The Digital Finance Strategy included three proposals: Digital Operational Resilience (**DORA**), Markets in Crypto Assets (**MiCA**), and a **Pilot Regime** for the use of distributed ledger technology (DLT) in capital markets.

MiCA is proposed as a Regulation – seeking to create a single, harmonious regime for crypto assets across all Member States. It explicitly addresses non-financial instruments, as tokens which are financial instruments (e.g. tokenised securities) are included in existing EU regulations, most notably MiFID II.

## MiCA has the following objectives:

- Provide clear and sound regulatory framework for and legal certainty of all crypto-assets
- Foster and support innovation in emerging technologies in financial sector
- Instil appropriate levels of consumer and investor protection and market integrity in the crypto-asset industry
- Ensure financial stability



# Political Context

- The EU's 2019 strong digital focus was only made stronger by the Covid 19 pandemic. This is evidenced in the European Commission's Digital Finance Strategy.
- MiCA is now negotiated by the European co-legislators: the European Parliament and Council. They have equally significant voices.
- EU policy makers worry about the influx of powerful non-EU players into the EU and EU financial services. This has shaped an agenda of digital sovereignty. The launch of the Libra Project also had a strong impact on the EU – it put EU policymakers on the defence and became synonymous with the stablecoins. In Council, such concerns cast a shadow on political support for innovation and created an urgency to regulate the crypto space, as evidenced in the H2 2020 German Presidency timelines.
- The EP was early to engage in the crypto space's first own-initiative report on virtual currencies in 2016. But a knowledge gap remains.
- The ECB is also a key stakeholder within the digital euro, seen as a counterbalance to private ownership of Europe's payment rails.
- MiCA proposes to regulate the entire crypto space. In doing so, the European Commission is setting up a global precedent, potentially a blueprint. Final legislation must not push the international approach in an unwelcome direction. There is space for feedback, but also education. Industry, particularly non traditional financial services firms, have a chance to inform the final outcome which may significantly vary from the EC proposal.





# Definitions

**For the first time in EU legislation, MiCA provides a list of certain definitions relating to crypto-assets including:**

- **crypto-asset:** a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology;
- **utility token:** a type of crypto-asset which is intended to provide digital access to a good or service, available on DLT, and is only accepted by the issuer of that token
- **asset-referenced tokens:** a type of crypto-asset that purports to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or several commodities or one or several crypto-assets, or a combination of such assets;
- **electronic money (e-money) token:** a type of crypto-asset the main purpose of which is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a fiat currency that is legal tender;
- **crypto-asset service provider:** any person whose occupation or business is the provision of one or more crypto-asset services to third parties on a professional basis;
- **crypto-asset service:** any of the services and activities listed in paragraph 9 of Article 3(1) relating to any crypto-asset, including custody and exchange services.



# Scope

MiCA applies to (1) the “issuing” of a crypto-asset and (2) the provision of a “crypto-asset service”:

Issuer of Crypto Assets	Crypto Asset Service Providers (CASPs)
<p>Applies to any legal person who:</p> <p>(a) <b>Offers</b> a covered crypto-asset to third parties in exchange for fiat currency or other crypto-assets; or</p> <p>(b) <b>Seeks the admission</b> of covered crypto-asset to a trading platform for crypto-assets</p>	<p>Applies to “any person whose occupation or business is the provision of one or more ‘crypto-asset services’ to third parties on a professional basis.”</p> <p><b>“Crypto-asset services”</b> include “any of the services and activities listed below relating to any crypto-asset”:</p> <ul style="list-style-type: none"><li>a) The <b>custody</b> and administration of crypto-assets on behalf of third parties;</li><li>b) The operation of a <b>trading platform</b> for crypto-assets;</li><li>c) The <b>exchange</b> of crypto-assets for fiat currency that is legal tender;</li><li>d) The exchange of crypto-assets for other crypto-assets;</li><li>e) The <b>execution</b> of orders for crypto-assets on behalf of third parties;</li><li>f) <b>Placing</b> of crypto-assets;</li><li>g) The reception and transmission of <b>orders</b> for crypto-assets on behalf of third parties;</li><li>h) Providing <b>advice</b> on crypto-assets</li></ul>

# Requirements for Issuers

	All Other Crypto Assets	Asset Referenced Tokens (ART)	E-money Tokens (EMT)
Set up a Legal Entity	--	--	--
Authorisation under MiCA		Takes up to 6 months and 25 days	
White Paper Content & Marketing	--	--	--
Notify White Paper with NCA	--	--	--
Consumer Protection Requirements	--	--	--
Governance Requirements		--	
Own Fund Requirements		EUR 250K or 2% of reserve assets	
Redemption Rules		--	
Internal Controls and Risk Mgmt		--	
Reserve Management		Amount, Custody, Investment	
Additional licenses			credit / e-money institution
EBA Supervision if Significant		--	--
Exemptions	Exempt only from white paper requirements, if <ul style="list-style-type: none"> <li>• offered for free</li> <li>• automatically created through mining as a reward</li> <li>• unique and not fungible</li> <li>• offered to fewer than 150 persons per Member State</li> <li>• over 12 months, the total offer &lt; EUR 1M</li> <li>• offered to qualified investors only</li> </ul>	<ul style="list-style-type: none"> <li>• Offered by credit institutions</li> <li>• Offered only to qualified investors</li> <li>• Over 12 months, the total offer &lt;€5M</li> </ul>	



# Significant Tokens

## Thresholds for Significance

- More than 2M customers
- Value or market cap exceeds EUR 1B
- Volume of 500,000 transactions or EUR 100 million per day
- Reserve assets exceed EUR 1 billion
- Used in 7 or more Member States
- Highly interconnected with the financial system (based on EBA assessment)

## Additional Requirements

- Remuneration policy that promotes sound and effective risk management
- Ensure that tokens can be held in custody by different CASPs, including CASPs from different groups
- Liquidity management policy and procedures
- Capital requirement increased to 3% of reserve assets
- Set orderly wind-down plans
- For EMTs: custody and investment of reserve assets

## Role of the EBA

- Issuers of significant ARTs and ERMt will be supervised by the EBA.
- EBA powers will include request for information, investigations, on-site inspections, and imposing fines.
- The EBA will also establish, manage and chair a Supervisory College to exchange information and issue non-binding opinions.



# CASPs Requirements

## Authorisation:

- Issued under MiCA, gives access to passporting rights across the EU
- Timeline: up to 3 months
- To provide payment services related to the crypto-asset services they offer, CASPs must also be authorised as a payment institution

## Prudential Requirements:

- CASPs need to maintain sufficient capital to meet their prudential requirements.
- These are based on the types of services provided, divided into three classes
- Capital Requirements range from EUR 50K to EUR 150K

## Governance Requirements, including:

- Skills and knowledge of personnel
- Continuity of service
- Internal controls and risk assessment
- Record keeping
- Cybersecurity\*
- Market abuse detection and reporting
- Client asset segregation
- Outsourcing
- Information sharing

\*CASPs will also be subject to operational resilience requirements under DORA

## Providers of custody services:

- Minimising risk of loss requirements
- Internal policies and contracting
- Client asset segregation
- Liability for losses

## Providers of exchange services:

- Price transparency requirements
- Non-discriminatory commercial policy requirements

## Providers of trading services

- Settle all transactions on DLT within the day
- Due diligence and approval processes for admittance of crypto assets
- Publish price, volume and time of the transactions executed

## Providers of advice:

- Assess the compatibility of crypto-assets with the needs of their clients
- Issue risk-warnings in case of insufficient knowledge





# Transposition

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- Requirements will not apply to issuers of crypto assets, other than ARTs and EMTs, which were offered in the EU any time before the entry into application of MiCA.
- CASPs will have 18 months from entry into application to secure an authorisation under MiCA. CASPs which already have an authorisation under a national law of an EU Member State may have access to a simplified authorisation procedure for MiCA.
- Within 36 months of MiCA entering into force, the Commission will provide a report on the application of MiCA, including:
  - number of crypto-assets issued and whitepapers registered in the EU
  - levels of fraud, hacks and theft of crypto-assets in the EU
  - number of authorised issuers of asset-referenced tokens and e-money tokens, with evaluation of their reserves of assets and transaction volumes
  - level of consumer protection, market integrity and financial stability provided by MiCA, and whether amendments to MiCA are necessary to achieve these objectives
  - whether the scope, definitions and exemptions under MiCA require amendment

# Pilot Regime for DLT market infrastructures

Summary of the European Commission's Proposal



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Why*	How*	Who*	Pilot Regime Parameters
<ul style="list-style-type: none"><li>• Development of secondary markets for 'tokenised' financial instruments</li><li>• Promote the uptake of DLT in the trading and post-trading area</li><li>• Enable market participants and EU regulators to gain experience on new opportunities and issues raised by DLT</li></ul>	<ul style="list-style-type: none"><li>• By introducing a pilot regime for DLT market infrastructures. Under this proposal, DLT market infrastructures can request <b>exemptions</b> from specific requirements embedded in EU legislation (MiFID II, CSDR)</li><li>• NCAs are in charge of granting these exemptions, while ESMA ensures supervisory convergence</li><li>• To ensure a level playing field across the EU, the exemptions that can be requested are limited and conditions are attached to them.</li><li>• This regime is optional.</li></ul>	<div><b>DLT multilateral trading facility (DLT MTF)</b><ul style="list-style-type: none"><li>• A MTF (as defined under MiFID II)</li><li>• Operated by a MiFID II market operator or an investment firm</li><li>• Only admits DLT transferable securities</li><li>• And may be permitted to ensure (i) recording, (ii) settlement and (iii) safekeeping of DLT transferable securities</li></ul></div> <div><b>DLT securities settlement system (DLT SSS)</b><ul style="list-style-type: none"><li>• A SSS (as defined under CSDR) Operated by a CSD</li><li>• That settles transactions in DLT transferable securities</li></ul></div>	<p>The Pilot Regime resembles a Regulatory Sandbox. As such, it has limits, safety measures, and rules for entry and exit:</p> <ul style="list-style-type: none"><li>• There are <b>limits</b> to the types / volumes of transferable securities admitted (e.g. market cap less than EUR 200M)</li><li>• <b>Exemptions can be requested only if</b> providers complies with associated conditions and demonstrates incompatibility between DLT and the provision requested to be waived</li><li>• Additional risk-mitigation requirements</li><li>• Permission is up to <b>six years</b></li><li>• Regime is to be reviewed in 5 years</li></ul>