

The MiCA Regulation in a Nutshell

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Understanding MiCAR – Part 1

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The MiCA Regulation will introduce a comprehensive legislative framework governing crypto businesses in Europe. Its primary objectives are to safeguard investors and increase legal certainty by imposing strict supervision on crypto-asset-related services.

The final version of the Regulation is presently awaiting approval from European institutions. It is expected that the new rules will enter into force after 18 months from their publication.



What is the MiCA Regulation?

The Markets in Crypto-Assets (MiCA) Regulation is a new European Union regulation introducing a comprehensive regulatory framework for market players operating in the cryptocurrency sector.

The Regulation will override the existing legislations approved by EU member States in the last few years, which have created a complex and fragmented regulatory environment for the provision of crypto-asset services in the EU. It will also address some of the major concerns emerged from recent defaults and financial scandals in this sector with a view to enhancing investor protection.

What is the current status of the legislative process concerning the MiCA Regulation and when will the new rules enter into force?

In fall 2022 the Council published the latest agreed text of the MiCA Regulation, resulting from a long negotiation between the Council, the Parliament and the European Commission. The final text of the MiCA Regulation is currently awaiting approval by the European Parliament, which is expected to occur in the first half of 2023.



The MiCA Regulation will override national regimes on crypto services in the EU and will address some major concerns related to crypto businesses.



The MiCA Regulation will only enter into force after 18 months from the date of its publication. Crypto-asset service providers that already offer their services in Europe on the basis of the existing licensing regimes will benefit from a grandfathering period of up to 18 months, which can be shortened or disapplied by EU Member States.

What are the objectives and the scope of application of MiCA?



The MiCAR will introduce regulatory oversight on crypto-asset service providers while at the same time promoting the use of innovative technologies.

The MiCA Regulation aims at increasing legal certainty for companies and investors operating in the cryptocurrency market. The Regulation will impose regulatory oversight over crypto-asset service providers while at the same time promoting the use of innovative technologies.

The Regulation is largely based on the existing EU financial services regulations which have been adapted to the specific features of services related to crypto-assets.

The MiCA will not apply to crypto-assets qualifying as financial instruments in accordance with the MiFID2. However, the Regulation does not draw a clear line or distinction between crypto-assets falling within the scope of the definition of financial instruments and those that do not qualify as such. This distinction will become a matter subject to interpretation in the next years.

What are the main requirements imposed by the MiCA?

The MiCA Regulation imposes several requirements on issuers of crypto-assets and service providers in the EU.

Crypto asset service providers must be authorized by the competent authorities in their respective EU Member States to provide their services. Issuers of crypto-assets must prepare a whitepaper with detailed information about the issuer, the crypto-asset, the offer terms, and the risks associated with the investment.

Investor protection measures are introduced under the Regulation, such as providing sufficient information and the right to withdraw investments within a certain timeframe.

The MiCA Regulation also introduces a number of transparency requirements and on-going obligations which must be met by crypto asset service providers.



The MiCAR will introduce passporting rules allowing crypto-asset service providers to operate cross-border in the EU.

What is the likely impact of the MiCA on the industry?

The introduction of MiCA will have a material impact on the EU market for crypto assets.

With the introduction of the EU passporting rules, crypto asset service providers will be allowed to operate cross-border under a streamlined regulatory framework, thereby overcoming the complexity of navigating across 27 different national regimes as per the current EU regulatory landscape.

Complying with the MiCA regime will however be challenging for some market players, as the MiCA will set a high standard of oversight and investor protection.

Notwithstanding the significant innovation brought by the MiCA, the Regulation does not tackle some of the most important trends of the industry – such as the use of DeFi platforms or DAOs (Decentralized Autonomous Organizations) – and leaves open a number of regulatory questions, including for instance on the qualification of the various types of crypto-assets as financial instruments under the EU rules.



This Focus is the initial chapter of a comprehensive guide analysing the contents, principles, objectives and potential impacts of the MiCAR. The additional chapters of the guide can be found at [this link](#).

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