

Digital finance: Markets in Crypto-assets (MiCA)

2020/0265(COD) - 20/04/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 517 votes to 38, with 18 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on markets in crypto-assets and amending Directive (EU) 2019/1937.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter

This Regulation lays down uniform requirements for the offer to the public and admission to trading on a trading platform of crypto-assets other than asset-referenced tokens and e-money tokens, of asset-referenced tokens and of e-money tokens, as well as requirements for crypto-asset service providers.

In particular, this Regulation lays down the following:

- transparency and disclosure requirements for the issuance, offer to the public and admission of crypto-assets to trading on a trading platform for crypto-assets (admission to trading);
- requirements for the authorisation and supervision of crypto-asset service providers, issuers of asset-referenced tokens and issuers of electronic money tokens, as well as for their operation, organisation and governance;
- requirements for the protection of holders of crypto-assets in the issuance, offer to the public and admission to trading;
- requirements for the protection of clients of crypto-asset service providers;
- measures to prevent insider dealing, unlawful disclosure of inside information and market manipulation related to crypto-assets, in order to ensure the integrity of markets in crypto-assets.

The Regulation covers crypto-assets that are not regulated by existing financial services legislation. It applies to natural and legal persons and certain other undertakings that are engaged in the issuance, offer to the public and admission to trading of crypto-assets or that provide services related to crypto-assets in the Union. It does not apply to crypto-assets that are unique and not fungible with other crypto-assets.

EU-wide rules for crypto-asset service providers

Under the new rules, crypto-asset service providers (CASPs) should have an authorisation to operate within the EU. National authorities should be required to issue authorisations within a timeframe of three months. Regarding the largest CASPs, national authorities should transmit relevant information regularly to the European Securities and Markets Authority (ESMA).

Consumer protection

MiCA should protect consumers against some of the risks associated with the investment in crypto-assets, and help them avoid fraudulent schemes. With the new rules, crypto-asset service providers should respect strong requirements to protect consumers' wallets and become liable in case they lose investors' crypto-assets. MiCA should also cover any type of market abuse related to any type of transaction or service, notably for market manipulation and insider dealing.

To ensure consumer protection, crypto-asset service providers that provide advice on crypto-assets, either at the request of a client or on their own initiative, or that provide portfolio management of crypto-assets, should make an assessment whether those crypto-asset services or crypto-assets are suitable for the clients, having regard to their clients' experience, knowledge, objectives and ability to bear losses.

Where it is clear that the crypto-assets are not suitable for the clients, the crypto-asset service providers should not recommend such crypto-asset services or crypto-assets to those clients, nor begin providing portfolio management of crypto-assets.

When providing advice on crypto-assets, crypto-asset service providers should provide clients with a report, which should include the suitability assessment specifying the advice given and how it meets the preferences and objectives of clients.

A strong framework applicable to so-called stablecoins is set up to protect consumers.

Actors in the crypto-assets market should be required to declare information on their environmental and climate footprint. The European Securities and Markets Authority (ESMA) should develop draft regulatory technical standards on the content, methodologies and presentation of information related to principal adverse environmental and climate-related impact.

ESMA register

ESMA should be required to maintain a of: (i) crypto-asset white papers for crypto-assets other than asset-referenced tokens and e-money tokens; (ii) issuers of asset-referenced tokens; (iii) issuers of e-money tokens; and (iv) crypto-asset service providers. ESMA's register should be publicly available on its website.

The adopted text includes measures against market manipulation and to prevent money laundering, terrorist financing and other criminal activities. To counter money-laundering risks the European Securities and Markets Authority (ESMA) should set up a public register for non-compliant crypto assets service providers that operate in the European Union without authorisation.

Crypto-asset service providers, whose parent company is located in countries listed on the EU list of third countries considered at high risk for anti-money laundering activities, as well as on the EU list of non-cooperative jurisdictions for tax purposes, will be required to implement enhanced checks in line with the EU anti-money laundering framework.

Reports

Within 18 months the European Commission should be tasked to prepare a comprehensive assessment and, if deemed necessary, a specific, proportionate and horizontal legislative proposal to create a regime for NFTs and address the emerging risks of such new market.

Within two years, the European Commission will have to provide a report on the environmental impact of crypto-assets.