



# MiCA Goes Live !

The Markets in Crypto-Assets (“**MiCA**”) Regulation has officially entered into force as of 29<sup>th</sup> June 2023. MiCA serves as a major regulatory reform in the EU which serves to strengthen investor and market protection, incentivises related new investment in the EU market, and has potentially established the EU as the leading global hub for the regulation of Crypto-Assets.

Prior to MiCA there was no specific EU financial crypto regulation which led to a lack of clarity and potential fragmentation between differing Member States. The desire for a harmonised, cohesive legislative framework resulted in MiCA being implemented to govern the issuance, offering and admission to trading of Crypto-Assets and also the provision of Crypto-Asset services within the EU.

## Crypto-Assets Defined

Crypto-Assets are defined under MiCA as: *“a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology”*.

## Classification of Tokens

MiCA governs and classifies the following categories of Crypto-Assets:

- *Asset-Referenced Tokens (“ARTs”)* - which purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies.
- *E-Money Tokens (“EMTs”)* - which purports to maintain a stable value by referencing the value of one official currency.
- *Assets other than ARTs & EMTs (such as “Utility Tokens”)* – only intended to provide access to a good or a service supplied by its Issuer.

Issuers of ARTs and EMTs will be subject to MiCA from 30 June 2023, whereas Utility Tokens will be bound from 30 December 2024. Issuers and Offerors of Crypto-Assets will need to familiarise themselves with a multitude of MiCA requirements such as seeking authorisation, publishing a White Paper, disclosure requirements, marketing communications, consumer protection, market abuse safeguards and environmental impact assessments.

## Crypto-Asset Service Providers

MiCA also regulates relevant businesses, which are

referred to as *Crypto-Asset Service Providers (“CASPs”)*. CASPs are in many ways similar to the present *Virtual Asset Service Providers (“VASPs”)* established under national regimes implementing the Fifth Anti-Money Laundering Directive (“**5AMLD**”) and MiCA facilitates a streamlined MiCA authorisation process for already licensed VASPs.

CASPs activities include: providing custody and administration; operation of a trading platform; exchange of Crypto-Assets for Funds/other Crypto-Assets; placing of Crypto-Assets; reception and transmission of orders for Crypto-Assets; providing advice, portfolio management and transfer services for Crypto-Assets on behalf of clients.

## Penalties under MiCA

Article 111 of MiCA addresses penalties and provides that NCAs shall have powers to impose appropriate penalties for infringements of MiCA. Such powers include: imposing fines; issuing public statements; orders requiring cessation and desistance; temporary ban on members of management of CASP; ban of at least 10 years; and suspension or withdrawal of authorisation of a CASP.

## Next Steps

European Securities and Markets Authority (“**ESMA**”) and the European Banking Authority (“**EBA**”) will publish Regulatory Technical Standards (“**RTS**”) on granular level details concerning a range of areas including liquidity requirements, disclosure requirements, etc. ESMA will also publish three Consultation Packages to assist in finalising these RTS, with the first being delivered in July 2023.



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