

MiCA: Draft new Standards from ESMA

The European Securities and Markets Authority (“ESMA”) issued draft Implementing technical standards (“ITS”) and Regulatory Technical Standards (“RTS”) pertaining to the Markets in Crypto Assets Regulation (Regulation (EU) 2023/1114 of the European Parliament and the Council of 31 May 2023) (“MiCA”) on 25th March 2023 (the “Final Report”).

Background

MiCA represents a major regulatory innovation in the EU for the regulation of Crypto-Assets. It aims to strengthen investor and market protection, incentivises related new investment in the EU market and will potentially make the EU the leading global hub for servicing of crypto investments. MiCA officially entered into force as of 29th June 2023 and the top-level regulation was to be followed by the issuance of ITS and RTS on various specific elements of the regime in the subsequent months. On 12 July 2023, ESMA published a Consultation Paper to seek stakeholders’ views on ESMA’s proposals for 5 RTSs and 2 ITSs. The consultation period closed on 20 September 2023.

The Final Report

The Final Report includes proposals for detailed rules on the following matters:

- Information required where certain financial entities wish to notify their intent to provide crypto-asset services.
- Information required for the authorisation of Crypto Asset Service Providers (“CASPs”)

- Complaints handling procedures of CASPs.
- Information required for a planned acquisition of a CASP qualifying holding.

An additional final report relating to the RTS on conflicts of interest for CASPs (in accordance with Article 72(5) of MiCA) will be published at a later stage.

Next Steps

ESMA has submitted the Final Report to the European Commission for adoption and will provide further advice and technical guidance in this area if requested by it. Elements of MiCA will become effective in June 2024 with further elements going live in December 2024.

How Clerkin Lynch can Help

The Asset Management team at Clerkin Lynch LLP can assist in advising on MiCA and with VASP registrations in Ireland as well as in relation to crypto funds. Contact us with any related queries or to receive copies of our other materials on the MiCA for further background.



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