

Legal Update

CBI INDUSTRY BRIEFING ON MICAR

The Central Bank of Ireland (“CBI”) held an industry briefing on 18th July in relation to the Markets in Crypto Assets Regulation (“MiCAR”). The aim of this event was to outline the CBI’s overarching objectives in relation to related authorisations and the ongoing supervision of this area. The CBI outlined its high-level expectations for market participants and those seeking to engage with the it to make formal applications for authorisation.

Background

MiCAR is a new regulatory framework for the crypto world bringing a pan-European regulatory framework similar to that applicable to existing financial services firms to related businesses including Crypto-Asset Service Providers (“CASPs”) as well as issuers of asset referenced tokens (“ARTs”), electronic money tokens (“EMTs”) and utility tokens. It is due to enter into effect this December.

CBI Supervisory Expectations

The CBI has highlighted their high-level supervisory expectations relating to 9 key areas:

1. Governance & Accountability
2. Conflicts of Interest
3. Protection of Client Assets
4. Ownership
5. Business Model and Financial Resilience
6. AML/CTF
7. Operational Resilience
8. Conduct and Transparency
9. Crisis Management

The CBI will ensure supervisory convergence to prevent arbitrage with other jurisdictions.

CBI’s MiCAR Risk Appetite

The CBI will take a “highly sceptical” approach to the offering of unbacked crypto products to retail consumers.

CBI Authorisation Process

There is currently a Pre-Application Engagement Phase where applicants can make initial contact with the CBI. The MiCAR Formal Application Phase is expected to open in Q4 of this year once the CBI has been formally designated as a National Competent Authority (“NCA”) under MiCAR.

Next Steps

The CBI will produce a Key Facts Document in the coming weeks in respect of the authorisation process.

How Clerkin Lynch Can Help

The team at Clerkin Lynch LLP can assist coin issuers, prospective CASPs and existing VASPs looking to gain authorisation under MiCAR. Please feel free to contact us for more information.



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