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The Market in Crypto Assets ("MiCA") Regulation has been formally adopted by both European Parliament and European Council, and published, on June 9, 2023, in the Official Journal of the European Union after a long and complex legislative process. MiCA is the World's most comprehensive regulatory framework of the crypto industry to date and aims to protect investors and ensure the integrity of the crypto-asset market, while at the same time fostering innovation.[1]

Like other European regulations before it (*e.g.,* regarding data protection and airplane emissions), MiCA is likely to be catalyst for regulation outside the EU, with regulators worldwide incorporating many of the principles set forth in MiCA in their domestic legal frameworks.

MiCA is part of a larger financial digitalization package

MiCA's was initially conceived by the EU Commission on September 24, 2020, in the context of the Digital Finance Package[2] - a series of legislative measures to promote the digitalization of the European traditional financial system. In addition to MiCA, the Package includes:

- the DLT Pilot Regime, a directive allowing for operators of market infrastructure to test Distributed Ledger Technology in the issuance, trading, and settlement of tokenised financial instruments, and amending to this end many current regulations, including the MiFID II;

- the DORA or "*Digital Operational Resilience Act*", a regulation providing for all players of the financial system to implement and enhance safeguards to counter and manage cyber-attacks and other information and communication technology (ICT) risks.; and

- the TFR or "*Transfer of Funds Regulation*", which applies to crypto-assets transfers and aims at ensuring financial transparency in crypto-asset exchanges.

[1] LINK to MiCA text as approved by EU Parliament.
[2] LINK to an institutional overview on the legislative initiative.

MiCA defined crypto-assets broadly but regulates narrow aspects of the crypto market

MiCA defines "crypto-asset" broadly, 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*"

Taking into account the breadth of the subject matter, MiCA takes a narrow approach, regulating only specific aspects of crypto market. MiCA sets forth requirements for the issuance and offer of crypto-assets to the public, the admission and trading of crypto assets on trading platforms, and the provision of services by "Crypto-Assets Service Providers" or "**CASPs**" (*i.e.,* entities that provide services related to crypto-assets). It also establishes measures to prevent insider dealing, unlawful disclosure of inside information and market manipulation related to crypto-assets.

"Crypto-assets" defined

MiCA classifies crypto-assets into three broad categories:

- Electronic Money Tokens or "EMTs", which purport to maintain a stable value by referencing the value of a single official fiat currency;[3]
- Asset-Referenced Tokens or "ARTs", which purport to maintain a stable value by referencing another value or right or a combination of both, including one or more official fiat currencies;[4] and
- Crypto-assets that do not qualify as ARTs or EMTs, which are mostly the so-called "utility tokens", that are meant to provide digital access to a good or service and are only accepted by the issuer of that token.

MiCA further differentiates between *significant* and *non-significant* ARTs and EMTs depending on whether they meet certain criteria in terms of customer base, market capitalization, or number of transactions, imposing higher regulatory burdens on "significant" ARTs and EMTs.

The White-Paper: Balancing investor and environmental protection

[3] The largest EMT on the market is currently Tether (USDT), referencing to the US Dollar.

[4] ARTs differentiate from EMTs because they can be anchored to a basket of assets and currencies, or, if only currencies, at least two of them, but not a single currency.
An example of ART would be PAX Gold, which backs every token with a troy ounce of material gold.

Another regulatory concept introduced by MiCA is the so-called "***White-Paper***", an document containing mandatory disclosures that must now be published by token issuers when making an offer of crypto-assets. The white paper is meant to provide investors with comprehensive information about the crypto-asset they are considering investing in, including its purpose, underlying technology, risks, and governance mechanisms.

Reflecting the EU's commitment to addressing climate change, MiCA requires that issuers of crypto-assets and CASPs include in their websites and White-Papers "*information on the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the crypto-asset*". MiCA explicitly favors crypto-assets that use a "consensus mechanism" (*i.e.,* the mechanism by which the blockchain achieves distributed agreement on the ledger's transaction data) that, at least theoretically, has less environmental impact than others,[5] and mandates that European Securities and Markets Authority (ESMA) draft technical standard addressing the issue.

MiCA's ban on interest

Notably, MICA bans CASPs from offering products that pay interest on crypto-assets – a provision that, while controversial, is meant to protect investors from fraud and to prevent the misuse of crypto-assets. While the ban directly impacts CeFi (Centralized Finance) platforms, it is ineffective vis-à-vis Decentralized Finance (DeFi) platforms, which, along with non-fungible tokens (NFTs), algorithmic stablecoins (only referenced in a preamble), or crypto-assets that qualify as financial instruments, are not covered by MiCA.

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[5] The issue stems from the debate and claims of significant energy consumption by the *proof-of-work* consensus mechanism versus the less impactful, from energy consumption point of view, *proof-of-stake*.

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