

Transitioning from the current Crypto-Asset Service Providers framework to MiCA

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Current EU Regulatory Landscape

- Only EU AML rules (limited):
 - Only cover custodian wallet providers and exchange services between virtual currencies and fiat currencies
- Some EU countries adopted bespoke national crypto regimes
- No EU-wide **passporting** regime
- No level-playing field
 - Fragmented and inconsistent, with significant divergence between jurisdictions

Current Cyprus Rules

- Crypto-assets activities are currently subject to AML/CTF regulation and supervision ('Obligated Entities')
- Requirement for Registration with CySEC via an authorisation process (quasi-license)
- Rules extend beyond minimum requirements of EU AML rules (expanded scope and requirements including the **'Travel Rule'**)
- Banks and Investment Firms cannot obtain a CASP registration attached to their primary authorisation

Who is currently required to get registered in Cyprus?



- Any CASP that provide services in or from Cyprus
- EU registered CASPs are exempt* from authorisation/registration but should still notify CySEC accordingly
- Third-country CASPs, must be registered with CySEC in order to be able to provide their services in Cyprus (remote registration)

**Where the services or activities of an EU CASP are not covered by the framework that governs its registration for AML/CFT purposes, the EU CASP should submit an application to be registered as a CASP with CySEC*

When MiCA enters into force?

- MiCA applies to persons that are engaged in the issuance, offer to the public and admission to trading of crypto-assets or provide services related to crypto-assets in the EU
- The rules on the issuance of ARTs and EMTs apply from **30 June 2024**, while other provisions (e.g. CASPs) will apply from **30 December 2024**
- The recast Transfer of Funds Regulation will apply from **30 December 2024**
- MiCA takes the form of a regulation. Consequently, there will be no national transposing measures
- Many of MiCA's technical aspects are still subject to further development via issuance of regulatory technical standards (Level 2)

Crypto-asset under MiCA

- Crypto-asset under MiCA is defined as ***‘any digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology’***
- MiCA differentiates between 3 groups of crypto-assets, each of which a separate set of requirements will apply:
 - **Asset referenced tokens:** crypto-asset that is not an e-money token and that purports to maintain a stable value by referencing another value or right or a combination thereof (e.g. commodities, other crypto-assets, currencies etc.)
 - **E-money tokens:** crypto-asset that purports to maintain a stable value by referring to the value of one official currency (for instance EUR, GBP or USD).
 - **Other crypto-assets:** a catch all category that aims to cover all other crypto-assets including utility tokens (provided that they do not qualify as transferable securities under existing financial regulations)

CASP services under MiCA

- MiCA lists 10 types of crypto-asset services:
 - i. providing custody and administration of crypto-assets on behalf of clients;
 - ii. operation of a trading platform for crypto-assets;
 - iii. exchange of crypto-assets for funds;
 - iv. exchange of crypto-assets for other crypto-assets;
 - v. execution of orders for crypto-assets on behalf of clients;
 - vi. placing of crypto-assets;
 - vii. reception and transmission of orders for crypto-assets on behalf of clients;
 - viii. providing advice on crypto-assets;
 - ix. providing portfolio management on crypto-assets;
 - x. providing transfer services for crypto-assets on behalf of clients;

Dual authorisation & passporting

- Under MiCA, a credit institution, an investment firm, a market operator, an EMI, a UCITS ManCo, or an AIFM can provide crypto-asset services assuming they obtain regulatory approval
- MiCA provides for an EU passporting regime

Transitional measures

- The rules (i.e. Title II) relating to the public offering of crypto-assets (except ARTs & EMTs) shall not apply to offers that ended before 30 December 2024
- If a crypto-asset (except ARTs & EMTs) is admitted to trading before 30 December 2024, only a limited number of rules (i.e. Title II) relating to the offers to the public apply

Transitional measures

- Issuers of ARTs other than credit institutions that issued ARTs in accordance with applicable law before 30 June 2024, may continue to do so until they are granted or refused an authorisation pursuant to Article 21, provided that they apply for authorisation before 30 July 2024

Transitional measures

- CASPs that provided their services in accordance with applicable law before 30 December 2024, may continue to do so until 1 July 2026 or until they are granted or refused an authorisation, whichever is sooner.
 - Member States may decide not to apply the transitional regime for CASPs or to reduce its duration where they consider that their national regulatory framework applicable before 30 December 2024 is less strict than this Regulation

Currently registered CASPs

- For CASP entities which are already authorised under a Member State's national law at the time of application of MiCA, Member States may choose to apply a simplified authorisation procedure for an 18-month period
- Considering the current limited rules in the EU and Cyprus vs MiCA, current CASPs should start preparing now

Non-registered CASPs and Crypto-Asset Issuers

- Understanding whether their offering falls within MiCA's scope and the precise obligations to comply with is key to avoiding business disruption in the transition period and beyond
- N.B. Reverse Solicitation exception for third-country CASPs

THANK YOU!