

CRYPTOASSET MARKETS AND POLICIES



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First insights from MiCA implementation and for MiCA review

Since the Markets in Crypto-Assets Regulation (MiCA) entered its implementation phase, supervisory experience and ESMA work are contributing to shed light on areas of CASP activities on which supervisors are focusing their scrutiny.

One of the most pressing issues relates to the business models of large crypto conglomerates. ESMA has provided guidance on structures that could, in practice, prove elusive and potentially circumvent MiCA's obligations, particularly through the misuse of reverse solicitation or the interposition of unregulated entities in brokerage chains. Monitoring that these supervisory insights are implemented at European level would be instrumental in ensuring that the spirit of MiCA is upheld and that investor protection and market integrity are not undermined.

Operational resilience is another key area of scrutiny, being a cornerstone of trust

in digital markets. While compliance with cybersecurity requirements is already assessed by NCAs as part of MiCA authorisations, the introduction of an independent third-party ICT audit as a mandatory component of the licensing process would significantly enhance supervisory effectiveness. This proposal for a MiCA reform, already supported by ESMA, would contribute to a more robust and consistent baseline across jurisdictions.

Beyond operational aspects, definitional and taxonomical clarity is critical for legal certainty and supervisory convergence. The classification of crypto-assets vis-à-vis financial instruments remains uneven across Member States. Further harmonisation, which could benefit from more direct experience with practical supervision, would reduce the risk of regulatory arbitrage and facilitate cross-border activities. Meanwhile, ESMA and the EC are playing a pivotal role in refining the delineation of crypto-asset services, notably through the adoption of guidelines and development of Q&As that will support both NCAs and market participants.

In addition, experience with the notification process for MiCA White Papers points to the need for more clarity and convergence. Limited review windows and varied expectations on the depth of NCA scrutiny may hinder effective oversight. Clarifying that a White Paper is considered duly notified only when the full information required by MiCA is submitted would help prevent manifestly non-compliant documents from being marketed.

Marketing practices in the crypto-asset space also warrant continued attention. The combination of limited financial literacy, speculative dynamics and strong digital engagement expose retail users to particular risks. Misleading promotions, often spread via social media, are increasingly used to support fraudulent or unauthorised initiatives. Stronger cooperation between NCAs and online platforms – as also IOSCO is advocating for – would ensure that basic principles of transparency and fairness are consistently enforced.

Linked to this is the need for a more integrated approach to supervision at the EU level, particularly in relation to significant crypto-asset service providers (CASPs) operating across borders. Centralised supervision could enhance

both consistency and efficiency, provided that ESMA undergoes an extensive reform to strengthen its pan-European perspective. From an operational standpoint, robust mechanisms, such as joint supervisory teams or comparable arrangements, should be introduced to ensure the effective involvement of national authorities from those Member States where the activity is carried out at scale and where risks to financial stability and retail investors most directly materialise.

MiCA implementation offers insights on areas to focus attention and areas for MiCA review.

Investor protection and market integrity remain foundational and mutually reinforcing goals of MiCA. In this respect, transaction reporting and market abuse detection play a key role, as market integrity is essential to ensuring investors are treated fairly and transparently. The increasing hybridisation of financial products and the credibility conferred by MiCA on regulated entities call for consistent application of the "same risks, same rules" principle across financial services. These issues should be central to the upcoming review of MiCA and to the broader effort to ensure a level playing field between traditional and digital finance.

In conclusion, the first phase of MiCA's implementation has already delivered valuable insights. Clarifying the regulatory perimeter, reinforcing operational safeguards, and enhancing supervisory integration will be helpful in consolidating the objectives of the regulation. Building on these lessons will ensure that MiCA continues to serve as a credible, future-proof framework that promotes trust, innovation and resilience in the EU digital finance ecosystem.



GEORGE THEOCHARIDES

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MiCA just the start of a delicate balancing act for EU markets

The new rules under MiCA introduce provisions for supervision, consumer protection and environmental safeguards for crypto assets, including crypto currencies. We believe that MiCA will bring more legal certainty and lead to a more mature and stable EU crypto market. The implementation of clear and robust standards, can limit speculative market practices, enhance consumer confidence and strengthen investor protection. It should also facilitate the integration of crypto-assets into traditional financial markets, making it easier for financial entities to offer crypto-related services to their customers such as custody, trading and payment solutions.

ESMA shaped MiCA as part of its Digital Finance Strategy to increase consumer protection, establish clear crypto-industry conduct, and introduce new licensing requirements. Importantly, MiCA covers classes of crypto-assets that currently fall outside of existing EU financial services legislation, as well as e-money tokens.

Since its implementation, existing investment firms have been registered for “passporting” to enable the pan-European provision of crypto digital

asset services, operating under the guidelines and strict supervision that MiCA provides. Approximately 50 firms have been granted market access under MiCA, of which only one licence has, to date, been issued by CySEC. There is also a number of applications under examination.

Prior to the adoption of MiCAR, and pursuant to the 5th EU Anti-Money Laundering Directive, CySEC established a national regulatory framework that was significantly enhanced to include additional services. This framework was designed to align with FATF recommendations, incorporate relevant organisational and operational requirements, and led to the creation of a national registry of CASPs under domestic law.

In my view, technology serves as the bedrock for the growth and evolution of the financial services industry. MiCA represents a timely and comprehensive legislative framework that acknowledges the new and emerging challenges posed by digital assets. However, it is important to underscore that, given the rapid pace of digitalisation, MiCA should be regarded as merely a starting point. It does not encompass the full spectrum of crypto-assets; for instance, non-fungible tokens (NFTs) remain outside its regulatory scope. Furthermore, while the issuance of stablecoins will fall under the remit of central banks, the trading of such assets and the provision of related services will be supervised by ESMA and national securities regulators.

It is clear that MiCA has the potential to unlock significant opportunities for the EU’s financial markets, driving innovation and positioning the EU as a leader in digital finance. However, its implementation and enforcement has presented some challenges, particularly as different Member States adopted varying transitional periods and inconsistent applications of the regulations.

These measures are entirely consistent with the decentralised nature of the crypto market, so we believe that taken together with the measures implemented under MiCA crypto can be effectively integrated. As already outlined, MiCA is not yet comprehensive in dealing with the full breadth of crypto assets and while facilitating integration and innovation, it is imperative that we balance the adoption of new technologies against their inherent risks particularly as the EU encourages markets to be more accessible to retail investors.

The introduction of MiCA has come at a time when the member states face pressures on public finances and the EU is understandably keen to introduce

regulation to make easier for retail investors to benefit from capital markets. The EU’s retail investment strategy aims to adapt disclosure rules, enhance transparency and comparability of costs and tackle misleading marketing. With the introduction of MiCA at a time when the EU is expanding access to traditional financial markets, it is imperative to strike a balance between embracing new technologies and addressing the growing influence of social media and online messaging platforms on trading behaviour. This influence can be further amplified by aggressive marketing practices, particularly as the EU facilitates broader market access—whether in equities or crypto-assets.

CySEC remains committed to a consistent and coordinated implementation of MiCAR across the EU.

ESMA recognises that its proposals for cost-efficient investment options will empower citizens to invest their savings to serve their long-term needs, whilst contributing to the development of capital markets, should be complemented by efforts to improve financial education. The need for an EU wide initiative is prescient.

CySEC remains committed to ensuring a consistent and coordinated implementation of MiCAR across the European Union.



NATASHA CAZENAVE

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MiCA's implementation – the path towards effective supervision in the EU

MiCA is more than just another piece of financial regulation. Right from the start, it has been conceived as the EU's strategic digital finance initiative, asserting its role as a standard-setter in crypto-asset markets. In a rapidly growing global market, MiCA brings the long-awaited regulatory clarity needed to foster responsible innovation while protecting investors and safeguarding financial stability.

Nevertheless, MiCA's promise will only be fulfilled if its implementation is orderly, consistent, and effective. Divergent approaches, which may paradoxically arise from its complex transitional regime, risk enabling regulatory arbitrage, forum shopping, and market distortions – precisely the pitfalls that MiCA aims to prevent.

To support robust implementation and build confidence in the new regime, ESMA has worked tirelessly with the national competent authorities (NCAs) to establish, in a record time,

a comprehensive set of implementing measures. Efforts have also been intensive to support convergent approaches across the EU, notably around the critical gatekeeping functions foreseen by MiCA. For example, practical cases are regularly presented and discussed amongst ESMA and NCAs to ensure responses to market participants are consistent.

To address related challenges, ESMA urged early on NCAs to embrace a holistic view of crypto-asset service providers' (CASPs) activities when processing authorisations. A comprehensive understanding of the implications of providing services under a home-host regulatory and supervisory framework is crucial to preventing potential harm to EU clients.

Given the important role crypto-asset execution venues play in the functioning of the crypto-asset ecosystem, ESMA also issued supervisory guidance on the validity of broker models, with a focus on best execution practices. This helps NCAs to mitigate risks associated with global entities seeking EU authorisation for limited activities while conducting their core operations outside the EU oversight.

Regarding stablecoins, ESMA has been working closely with the European Banking Authority to ensure consistent application of MiCA across the market. In particular, ESMA issued a statement on non-compliant stablecoins in the EU which clarified that unauthorised tokens must be delisted for new clients and completely phased out. Delistings by major exchanges have marked a shift in the accessibility of USDT within the EU, underlining the immediate market impact of MiCA's implementation.

More recently, ESMA concluded a peer review which recommends that all NCAs currently in the process of authorising CASPs pay particular attention to certain areas of risk, including business growth, conflicts of interests, governance and intragroup arrangements, ICT architecture, 'Web3' developments, decentralised products, and the promotion of unregulated services.

These examples underscore ESMA's determination to ensure MiCA's smooth implementation, even though it is still early days. Its interactions with PSD2, AML and DORA will likely deserve further attention, while the definition of services such as custody in a decentralised, cross-jurisdictional context, and the treatment of DeFi, may also warrant adjustment. Meanwhile, the crypto market is evolving rapidly, with market penetration increasing and more retail and professional investors

considering crypto-asset investments. It will also be important to track global regulatory developments, in particular with the United States which is currently adjusting its regulatory approach.

Last but not least, considering EU-level supervision of large CASPs in the context of the SIU has merits. While helping alleviate regulatory burden and simplifying procedures for market participants, establishing the supervision of large cross border CASPs at EU level could enable more efficient EU wide oversight and a more holistic understanding of the market and its risks, compared to fragmented national approaches. Centralising supervision would, of course, require a careful redistribution of responsibilities in relation to those large cross border firms to maintain the benefits of proximity while leveraging the EU dimension to tackle cross-border and systemic risks. It would also necessitate appropriate resources and investments to keep pace with a sector characterised by rapid and often disruptive change.

Considering EU-level supervision of large CASPs in the context of the SIU has merits

In the end, the current version of MiCA is certainly a milestone – but probably not Europe's final destination on the digital assets journey. Next steps could, for instance, include establishing a dedicated, EU wide regime for DLT-based market infrastructures that would ensure legal clarity, supervisory consistency, and scalability. Whatever the future holds, ESMA stands ready to play its part, contributing to Europe's strategic objective of maintaining financial stability and enhancing investor protection without stifling the innovation that lies at the heart of competitive and attractive EU capital markets.



PHILIPP BOHRN

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Crypto after MiCA application and its needed integration with EU policies

1. The first lessons learned from MiCA implementation

MiCA is a landmark event for the crypto industry in the EU as well as globally. While MiCA's goals are well-intentioned and laudable, there are several key lessons that are already emerging in its still early stages of full application. In our view, these are the key lessons that should be considered:

Direct applicability is not guaranteed: Although there should be harmonisation, convergence, equality and clarity, this is not the case, and it's far from being solved.

Enforcement and supervision: Continues to vary with different priorities across the EU, risking regulatory arbitrage and dilution of standards.

Level II and III: These numerous acts go beyond the scope of MiCA and are disproportionate, impacting business operations.

Market consolidation: Higher entry thresholds can impact competitiveness.

Remaining questions: There are many questions that need clarification from the ESMA and Commission,

which impact clarity and overall implementation.

Grandfathering: In the fintech world, the next 12-18 months bear heavy implications. Certain core elements should still apply to ensure a level playing field.

2. What are the main benefits and challenges of the MiCA framework?

A. Benefits

The core benefit that MiCA provides is the foundation of the first globally comprehensive crypto regulatory framework. The shift from an unregulated or loosely regulated crypto industry with national fragmentation to a regulated market is a true watershed moment.

With this in mind, we can identify the following key benefits:

Regulatory clarity and certainty: Overall clarity for businesses and technology is a major milestone.

Harmonisation and Passporting: A previously fragmented market with different registrations or licensing regimes is finally unified. Passporting streamlines operations and fosters growth. This is a real benefit of the single market.

Fair competition: Authorisation is required to operate in the EU, ensuring a level-playing field. Strong rules on reverse solicitation support compliant CAPSs.

MiCA is good, but complacency is not. Instead of risk-aversion, we need to seize the new opportunity.

Higher professionalism and standards: The new rules require more robust regulatory compliance and security standards. This elevates quality and trust.

Recognition and Credibility: MiCA is the anchor and the cornerstone for opening the crypto market and blockchain technology to the traditional financial system and improving it.

Consumer protection: Forms part of the operational and prudential step-up. This better protects the ownership, improves safeguarding practices, and enhances customer care.

B. Challenges / Gaps

There is no perfect regulation. To successfully resolve challenges and gaps, we need better understanding, enhanced

public-private cooperation and more recognition of the opportunities lying in front of us.

Here are the key gaps that should be resolved:

Lack of convergence: This jeopardises MiCA's harmonisation by continuing regulatory arbitrage or gold-plating in relation to authorisation, supervision and enforcement standards, diluting the level-playing field.

Lack of simplification: MiCA, together with other regulations (DORA, TOFR) produces thousands of pages. Then, level II and III acts are disproportionate or go beyond MiCA. Instead of simplification, this complexity impacts business growth.

Negative perception and understanding of technology: despite the new regulatory framework, the EU still deliberates on unfounded myths surrounding the industry, while other jurisdictions take more bold and visionary approaches.

3. Stronger integration of crypto in major ongoing EU policy initiatives

The crypto market proved many people wrong for over a decade - it did not end. Now, we observe global adoption and growth unseen before. The crypto market cap in 2025 is approximately \$3.9T, while the NASDAQ Composite \$21T or S&P 500 \$53T, were much longer in the market. These are indicators of the need to better integrate crypto in the EU policies (SIU, Startup & Scaleup Strategy). The policies aim at economic progress, enhancing livelihoods, and improving global position.

The crypto sector has many similarities and can support accordingly:

Innovation, Growth, and Competitiveness: Crypto is innovation that supports digital and financial literacy. Being an innovative hub will encourage economic progress. The competitive standards will be set and the gap of missing the first technological revolution erased.

Digital Europe: Blockchain and crypto are natives of Web3. If we want to secure a digital future, we should apply it in our lives and use it as a problem solving tool.

Financial Inclusion and Literacy: Crypto has opened doors for new investors. It is a gateway for retail participation in the financial market as a whole and an interesting means of encouraging people to explore monetary science and investments.

Support for sustainability: Technology contributes to energy transition by recycling of energy, preventing energy waste, and supporting green energy operation.