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Crypto-Assets

EU Draft Regulation on Markets in Crypto-Assets (MiCA)

March 2021

Definitions

- Crypto-assets: a digital representation of value or rights, which may be transferred and stored electronically, using distributed ledger technology or similar technology
- Asset-referenced token*: a type of crypto-asset that purports to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or several commodities or one or several crypto-assets, or a combination of such assets
- Electronic money token*: a type of crypto-asset the main purpose of which is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a fiat currency
- Utility token: a type of crypto-asset which is intended to provide digital access to a good or service available on DLT and is only accepted by the issuer of that token

Challenges for Implementation

Issuers and service providers

- Authorization
- Classification and ongoing information about crypto-assets
- Reserve assets / own fund requirements
- Plan for orderly wind down
- Notification requirements
- Cross-border provision
- Governance requirements
- Draft of white papers (Only issuers)
- Liability for white paper (Only issuers)
- Record keeping (Only service providers)
- Outsourcing conditions & policy on outsourcing (Only service providers)
- Additional challenges specific to the nature of services (Only service providers)

Investors

- Assessment of crypto-asset white papers
- Monitoring of changes in classification of crypto-assets in the investment portfolio

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Key components

Issuers and service providers

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Requirements for marketing communications

Transparency and disclosure

Publication of white papers and marketing communications

Provision of crypto-asset white papers

All issuers

Legal entity

Requirements for authorization

Application to competent authority

Additional requirements for issuers of

+ Average outstanding amount of tokens

Additional requirements for issuers of

+ Authorization as credit institution or

+ Average outstanding amount of tokens

Instruments

electronic money institution

asset-referenced tokens

exceeds 5 Mio. EUR

electronic money tokens

exceeds 5 Mio. EUR

Crypto-assets in the EU,

which may be transferred

and stored electronically,

using distributed ledger

Services related to crypto-

technology or similar

technology

assets in the EU



Supervision

Requirements for

authorization

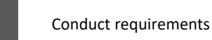
Crypto-asset white

Liability for white paper content

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Operational organization and governance



Publication and reporting Crypto-asset white paper content requirements

Governance requirements

Own funds and reserve assets obligations

Market integrity

Prohibition of market manipulation

Prohibition of insider dealing

Prohibition of unlawful disclosure

Disclosure of inside information

Crypto-asset white paper

- Issuer and main participants
- Description of issuer's project Characteristics of the offer
- Rights and obligations
- Technology and standards Risks

Summary of key information

- Fair, clear and not misleading; concise and comprehensible
- Published on issuer's website; further technical and language requirements

form, no material omissions

Additional requirements for issuers of electronic money tokens

+ Indication on whether it concerns an offering to the public and/or an admission to trading on a trading platform

Additional requirements for issuers of asset-referenced tokens

- + Governance
- + Reserve assets + Custody and investment policy for
- reserve assets
- + Nature and enforceability of rights + Complaint handling procedure

Issuer or its management body

Infringement of the content and form requirements

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Consumer protection

Custody and

administration of

crypto-assets

Operation of a trading

platform

Exchange of crypto-

assets

Execution of orders

Placing of crypto-

Reception and

transmission of orders

Advice on crypto-

assets

Liability for white

paper content

Burden of proof is on the holders of the tokens

Supervision

Ordinary Supervision

Competent authority of the home Member State

Special supervisory regime for "significant" tokens

Only asset-referenced tokens and electronic money tokens can be qualified as "significant"

3 out of 6 criteria:

- size of the customer base or shareholders
- value or market capitalization
- number and value of transactions
- size of the reserve of assets of the issuer
- significance of the cross-border activities
- interconnectedness with the financial system

Thresholds to be specified by the Commission

Significant asset-referenced tokens

Significant electronic money tokens (Dual supervision by both competent authorities and the EBA)

- Issuers are encumbered with additional requirements and supervised by the EBA
- Issuers can request to be qualified as significant

Consultative supervisory college ("College")

- EBA
- ESMA
- ECB (+ if applicable, national central bank)
- Competent authority of the home Member State
- Competent authorities of the most relevant credit institutions or crypto-asset service providers
- Further competent authorities, where applicable

This communication contains general information only, and none

Scope

 Financial instruments within the meaning of MiFID Electronic money within the

Out of Scope

2009/110/EC Deposits within the meaning of MiFID

meaning of Directive

- · Structured deposits within the meaning of MiFID
- Securitization within the meaning of EU regulation 2017/2402

In Scope

- Entities engaged in the issuance of crypto-assets
- Entities engaged in services related to crypto-assets in the

Limited Scope Credit institutions authorized

under Directive 2013/36/EU* · Investment firms authorized under Directive

ssuance of asset-referenced tokens: Not subject to authorization

Provision of crypto-asset services: Not subject to authorization requirements

Provision of crypto-asset services: Not subject to authorization requirements

2014/65/EU**

Entities

Out of Scope

Insurance / reinsurance undertakings when performing activities as referred to in Directive 2009/138/EC

Public authorities, e.g. ECB

- Liquidators / persons acting in the course of an insolvency procedure Persons who provide crypto-
- asset services exclusively for their group entities
- European investment bank / **European Financial Stability** Facility / ESM
- Public international organizations

Key factors for implementation

requirements and own fund requirements

Issuers and service providers

- Preparation of a viable business plan for authorization / license application
- Set up of a compliant governance structure
- Fulfillment of transparency and disclosure obligations
- Planning of regulatory capital and liquidity Assessment of risks
- Implementation of internal controls
- Set up of an efficient organizational and IT structure
- Systems, procedures and arrangements to monitor and detect market abuse (service providers)
- Written agreement with any third parties involved in outsourcing (service providers)

Issuers and service providers

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