Forging New Pathways

Digital Finance Package - Markets in Crypto Assets (MiCA) / Pilot Regime:
The foundations of tomorrow's financial environment

Context and objectives

Since blockchain technology first emerged, we have seen several crypto assets and digital currencies launch, of which Bitcoin is the most well-known. The high volatility of these instruments has led to regulators issuing warnings to protect investors and the creation of new digital currencies like stablecoins and central bank digital currencies (CBDCs) that are supported by the main central banks, the European Central Bank (ECB) and the Bank for International Settlement (BIS). The digitalization of markets and the use of crypto assets as security tokens have also boomed in the last few months, not only on the alternative fund side but also in traditional debt and equity.

The European Commission has set out a new ambitious regulatory framework to encourage responsible innovation within a single EU markets to benefit consumers and businesses under a comprehensive Digital Finance Package:

**Digital finance Strategy**
That aims to make Europe’s financial services more digital-friendly and to stimulate responsible innovation and competition. It will ensure that EU financial services rules are fit for the digital age, for applications like artificial intelligence, data management and blockchain.

**Retail Payment Strategy**
That aims to achieve a fully integrated retail payments system in the EU, including instant cross-border payment solutions.

**Proposal for a Markets in Crypto Assets (MiCA) regulation:**
That aims to provide an EU harmonized framework for the issuance and provision of services related to crypto assets, exchanges and trading platforms, while mitigating risks for investors and addressing financial stability and monetary policy risks.

• **a pilot regime for market infrastructures:**
That aims to trade and settle transactions in financial instruments in crypto-asset form and gain experience in the use of distributed ledger technology (DLT).

**Proposal for a digital operational resilience for the financial sector (DORA) regulation:**
That aims to ensure that all financial system participants have the necessary safeguards in place to mitigate cyberattacks and other risks.
### Business versus regulatory actions timeline

**Indicative**

#### European Commission (EC)'s Digital Finance Package
- Digital Finance strategy
- New MiCA regulation / DLT pilot regime
- DORA regulation
- Retail Payment strategy

#### Regulatory process
- European Parliament / EU Member States

#### Transposition and / or Level 2 measures
- New licences
- New products

---

**Regulatory Action Plan**

- 2020
- 2021
- 2022
- 2023
- 2024
- 2025

---

**Business Timeline**

- EC confirms that digital assets are also under these current regulations:
  - MiFID,
  - MAR,
  - eMoney Directive
  - CSDR
  - etc

- Launch of first digital ledgers
- Green finance / International debt
- Single platform, single template
- Under full EU regulations and Luxembourg regulation

---

**Communications to broaden investors' base**

- Retail, professionals and any issuers

---

**Converge to a common objective / new world.**

---

**Can go today for**

- Banks
- CSDs
- MiFID Firms
- Trading community (RMMTF)
What are crypto assets?

Crypto assets are defined as a digital representation of value or rights, which may be transferred and stored electronically by using a distributed ledger or similar technologies. There are three main subcategories of crypto assets:

1. **Currency tokens**
   - Often referred to as “cryptocurrencies” (such as Bitcoin), these are used as a means of exchange or for investment.

2. **E-money tokens (*)**
   - Used as a means of exchange that purports to maintain a stable value by being denominated in (units of) a fiat currency.
   - Grants users with a claim at any moment and at par value with the fiat currency referenced.

3. **Asset-referenced tokens (*)**
   - Used as a means of exchange and maintain a stable value by referring to the value of several flat currencies, or several crypto assets, or a combination of such assets.

4. **Utility tokens**
   - Provide to the holder the option to redeem a specific product or service that is typically provided using a DLT platform.

5. **Security tokens**
   - Provide to the holder the ownership of assets and the rights to use them, including dividend distribution (profit sharing) and voting rights.
   - Nonfinancial instruments
   - Financial instruments definition under MiFID (allowing for transferability, negotiability, standardization).

---

(*) New sub-categories introduced by MiCA.

(**) Holders of electronic money are always provided with a claim on the electronic money institution and have a contractual right to redeem their electronic money against fiat currency at par value with the fiat currency and at any moment. Electronic money can qualify as e-money tokens.
What the future will look like—the MiCA regulatory framework

**Objectives**

Provide harmonized framework around:

- Regulate the issuance, and provision of services related to crypto-assets, exchanges and trading platforms;
- Support innovation and fair competition while ensuring a high level of consumer protection and market integrity; and
- Address financial stability and monetary policy risks

**Requirements**

Requirements focus on:

- **Issuance and admission** to trading of crypto-assets;
- **Authorization and supervision** of crypto-asset service providers and issuers;
- **Operation, organization and governance** of crypto-asset issuers and providers;
- **Consumer protection** rules for the issuance, trading, exchange and custody of crypto-assets;
- Measures to prevent **market abuse** to ensure the integrity of crypto-asset markets;
- Crypto assets that qualify as **financial instruments or electronic money** (unless they qualify as e-money tokens) fall under the **requirements of their respective directive** (MiFID II, Electronic Payment directive). Deposits and securitization are not in scope.
- Central banks, the European Investment Bank, ESM (European Stabilisation Mechanism) and insurance undertakings are exempt.

**Scope**

- **Placement** of crypto-assets;
- **Operation of a trading platform** of crypto-assets;
- **Exchange** of crypto-assets for fiat currency or other crypto-assets;
- **Execution of orders** on behalf of third parties;
- **Execution of payment** transactions in asset-referenced tokens;
- **Reception and transmission of orders (RTO)** for crypto-assets on behalf of third parties;
- **Custody** (incl. safekeeping) and administration of crypto-assets;
- **Advice** on crypto-assets;

**Services**

Services in scope cover the full value chain from issuance, distribution and custody:

- **Placement** of crypto-assets;
- **Operation of a trading platform** of crypto-assets;
- **Exchange** of crypto-assets for fiat currency or other crypto-assets;
- **Execution of orders** on behalf of third parties;
- **Execution of payment** transactions in asset-referenced tokens;
- **Reception and transmission of orders (RTO)** for crypto-assets on behalf of third parties;
- **Custody** (incl. safekeeping) and administration of crypto-assets; and
- **Advice** on crypto-assets;
What the future will look like—pilot regime to support innovation within a legal framework

“Crypto asset”: A digital representation of value or rights, which may be transferred and stored electronically using a distributed ledger or similar technology.

- Crypto assets that qualify as financial instruments or electronic money (unless they qualify as e-money tokens) fall under the requirements of their respective directive (MiFID II, Electronic Payment directive, CSDR, Prospectus and Transparency, etc.) where and when possible.
- All other crypto assets fall under MiCA.
- Then comes the pilot regime, its aims to facilitate the development of crypto assets in a selected number of situations and for a specific list of intermediaries for instruments that qualify as “financial instruments” and DLT, while preserving a high level of financial stability, market integrity, transparency and investor

<table>
<thead>
<tr>
<th>Issuance (primary market)</th>
<th>Trade</th>
<th>Post Trade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Issuance</td>
<td>Exchange (OTC, Regulated/ MTF)</td>
<td>Clearing (CCP)</td>
</tr>
<tr>
<td>Register / Listing</td>
<td></td>
<td>Settlement (CSD)</td>
</tr>
</tbody>
</table>

Pilot regime: New DLT market infrastructures—DLT MTF (trade)/DLT SSS (post-trade)

DLT market infrastructure should be defined either as a DLT multilateral trading facility (DLT MTF) or a DLT securities settlement system (SSS) (operated by a CSD authorized under CSDR) but allowed to request exemptions from different provisions.

DLT MTF and DLT SSS can request a temporary derogation from this obligation of intermediation, allowing them to offer direct access to retail investors.

DLT MTF should be allowed to ensure the initial recording of DLT transferable securities, the settlement of transactions in DLT SSS transferable securities and the safekeeping of DLT transferable securities.

Transferable securities admitted to trading on a DLT MTF or recorded in a CSD operating a DLT SSS should be limited to securities, such as shares and bonds that are not liquid.

The recording of a transferable security and the settlement of related transactions on DLT imposes an intermediation by a CSD (Central Securities Depository) and would oblige it to replicate the recording on the distributed ledger at the CSD level.

Settlement (delivery versus payment) in central bank money and, where not practicable or available, through commercial bank money (e-money token).