

Regulatory News Alert

European Commission paves the regulatory way for future digital financial services

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Context and objectives

On 24 September 2020, the European Commission (EC) set out a new Digital Finance Package to support the innovation and competition of digital finance. It aims to give consumers more choices and opportunities regarding financial services and digital payments, while also ensuring consumer protection, mitigating risks and boosting financial stability. The Digital Finance Package is composed of the following 4 pillars:

1. [Digital finance strategy](#): aiming to make Europe's financial services more digital-friendly and to stimulate responsible innovation and competition. It will ensure that European Union (EU) financial services rules are fit for the digital age, including applications such as artificial intelligence (AI), data management and blockchain.
2. **Proposal for a regulation on markets in crypto-assets (MiCA)**: aiming to provide an EU-harmonized framework for the issuance and provision of services related to crypto-assets, exchanges and trading platforms, while mitigating investor risks and addressing financial stability and monetary policy risks. This regime is aimed at complementing the current framework, for example, if existing regulation does not yet address the digital assets category or for entities that are newly regulated.
 - The EC has also proposed a [pilot regime](#) for **market infrastructures** wishing to trade and settle transactions in financial instruments in crypto-asset form and gain experience in the **use of distributed ledger technology (DLT)**.
3. [Retail payments strategy](#): aiming to achieve a fully integrated retail payment system in the EU, including instant cross-border payment solutions.
4. **Proposal for a regulation on digital operational resilience for the financial sector (DORA)**: aiming to ensure that all financial system participants have the necessary safeguards in place to mitigate cyberattacks and other risks.

Digital finance strategy

This strategy aims to support Europe and its financial sector to embrace digital innovation trends (DLT, application programming interfaces [API], data management, etc.) and all the opportunities offered by the digital revolution.

The strategy identifies the **key priorities** and objectives for digital finance in Europe **up to 2024**:

1. **Remove fragmentation in the digital single market** for financial services, thereby enabling European consumers to access cross-border services and help European financial firms scale up their digital operations.
2. **Provide an EU regulatory framework facilitating digital innovation (crypto-assets, cloud computing, AI, DLT, etc.) in the interest of consumers and market efficiency.**
3. **Promote data-driven innovation in finance by establishing a common financial data space.**
4. **Address the challenges and risks** associated with digital transformation (financial stability, digital operational resilience and protecting investors and consumers).

New MiCA regulation and DTL pilot regime

To complement the digital finance strategy, the EC proposes a new EU legislative framework for markets in crypto-assets (the MiCA regulation). MiCA defines crypto-assets as digital representations of value or rights that can be transferred and stored electronically using distributed ledger or similar technologies. The regulation will aim to regulate issuers of crypto-assets as well as entities that provide related services and activities.

In particular, MiCA addresses the following crypto-asset categories:

1. **Utility tokens** defined as crypto-assets whose primary function is to provide digital access to an application, service or resource available on a DLT.
2. **Asset-referenced tokens** with a payment functionality that aim to maintain a stable value by referencing several currencies, one or multiple commodities, one or multiple crypto-assets, or a basket of such assets.
3. **E-money tokens** as a means of payment that aim to stabilize their value by referencing only one fiat currency that is legal tender.

The 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 (including safekeeping) and administration of crypto-assets; and
- Advice on crypto-assets.

This MiCA Regulation is still to be debated by EU institutions. However, it is important to note that the current crypto-assets that qualify as financial instruments or electronic money (except e-money tokens) still fall under the requirements of their respective directives ([MiFID II](#), [Electronic Payment directive](#), [Prospectus](#) and [Transparency](#) Directives, [CSDR](#), etc.) and within the context and legal framework that is currently in force.

A proposal in line with MiCA will organize a pilot regime to provide appropriate levels of consumer and investor protection; legal certainty for crypto-assets; enable innovative firms to make use of blockchain, DLT and crypto-assets; and ensure financial stability.

DORA regulation

This regulation lays down the requirements concerning the **security of network and information systems supporting the business processes of financial entities**, such as:

1. Requirements that apply to financial entities regarding: information and communication technology (ICT) risk management; reporting of major ICT-related incidents to the competent authorities; digital operational resilience testing; information and intelligence sharing concerning cyberthreats and vulnerabilities; and measures for sound management by financial entities of ICT third-party risk.
2. Requirements regarding contractual arrangements concluded between ICT third-party service providers and financial entities.
3. Oversight framework for critical ICT third-party service providers that provide services to financial entities.

DORA will apply to all financial entities such as banks, stock exchanges, clearinghouses, as well as big tech companies that provide cloud computing to financial institutions.

Retail payments

The EC aims to organize a highly competitive payments market, whatever the currency, where all market participants can compete on fair and equal terms to offer innovative and state-of-the-art payment solutions in full respect of the EU's international commitments.

The strategy focuses on the following four key pillars:

1. Increasingly digital and instant payment solutions with pan-European reach;
2. Innovative and competitive retail payment markets;
3. Efficient and interoperable retail payment systems and other support infrastructures; and
4. Efficient international payments, including remittances.

How can Deloitte help you?

Deloitte can help you gain awareness on the subject and design a pragmatic strategy to manage the evolution of this new asset class and identify the potential impacts on the issuance, trading and custody value chain.



You can find out more about the business opportunities and regulatory framework related to securities services in a DLT environment in our white paper “[Are token assets the securities of tomorrow?](#)”.

We can support you in various critical dimensions such as strategy, business and operating models, regulatory and compliance, technology, and risk management.

Deloitte’s Regulatory Watch Kaleidoscope service helps you stay ahead of the regulatory curve to better manage and plan upcoming regulations.

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