

The world's first comprehensive crypto laws have been approved by EU Parliament

Insights - 22/05/2023

The European Union (EU) has introduced the world's first comprehensive regulation for issuing and trading crypto; the Markets in Crypto-Assets (MiCA) Regulation.

The cryptocurrency industry has experienced significant growth in recent years, with the market capitalisation of cryptocurrencies reaching an all-time high in 2021. However, the lack of clear regulations in the industry has left investors vulnerable to fraud and other risks. To address this issue, the European Union (EU) has introduced the world's first comprehensive regulation for issuing and trading crypto; the Markets in Crypto-Assets (MiCA) Regulation. The MiCA Regulation is expected to come into effect in July 2024. Lawmakers in the EU voted overwhelmingly in favour (517 -38) of the new regime on 20 April last.

The MiCA Regulation proposes a set of rules designed to regulate the issuance and trading of crypto-assets in the EU. It aims to provide a clear legal framework for crypto-assets, which will protect investors, promote innovation in the industry and provide regulatory clarity in the EU crypto industry that does not exist elsewhere. The regulation will cover a wide range of crypto-assets, including cryptocurrencies such as Bitcoin/Ether, utility tokens, asset referenced tokens (ARTs) and electronic money tokens (EMTs).

New requirements

The MiCA Regulation will require issuers and traders of crypto to be licenced with a national regulator (in Ireland this will be the Central Bank of Ireland) and to provide investors with a prospectus, which will include information about the issuer, the asset, and the risks associated with investing in the asset. The prospectus will also need to be approved by a competent authority before it can be made available to investors.

The MiCA Regulation will also introduce requirements for crypto-asset service providers (CASPs). CASPs will need to be registered with the competent authorities in their home country and will be subject to strict requirements relating to capital, risk management, and investor protection. CASPs will also need to comply with anti-money laundering and counter-terrorism financing regulations.

Another key aspect of the MiCA regulation is the introduction of a "passporting" system, which will allow CASPs to operate throughout the EU without the need for additional authorisations. This will promote cross-border competition, increase investor choice and undoubtedly impact the EU as a venue of choice for crypto trading.

The MiCA regulation will also provide clarity on the legal status of crypto-assets. Under the regulation, crypto-assets that meet certain criteria will be classified as financial instruments, which means they will be subject to existing EU financial regulations, such as the Markets in Financial Instruments Directive (MiFID II). This will provide investors with greater protection and will also create a level playing field for traditional financial institutions and crypto-asset providers.

The industry response

While some critics argue that the regulation is too prescriptive and may limit the ability of startups to develop new and innovative crypto-assets, supporters of the regulation argue that it will provide a stable and predictable regulatory environment, which will encourage investment in the industry and growth that will naturally follow this investment.

Crypto firms including Binance, and Coinbase have welcomed the passing of this legalisation with Binance's Regional Head of Europe and MENA, Richard Teng describing the regulatory shift as a *"positive thing for users and the industry"* and Coinbase's Vice President of International Policy, Tom Gordon describing the work of the EU policy makers as "exemplary".

Overall, the MiCA Regulation is an important step towards regulating the crypto-assets industry in the EU. The regulation will provide clarity on the legal status of crypto-assets, investor protection, and encourage innovation in the industry. The EU financial services commissioner, Mairead McGuinness, in describing the vote in favour of the new regime as a "world first" hopes that the MiCA Regulations could influence and provide precedent for similar regimes outside the EU.

If you would like any further information or advice on this area, please contact elaine.white@ogier.com.

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