Just in Time

MiCAR

The EU Approach to Crypto-Asset Regulation

Mar 2025

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Executive Summary

- The growing **intersection** of **Financial Markets** and **Technology** has increasingly captured **investors' attention**, particularly towards innovative financial products such as **crypto-assets**
- As **crypto-assets** become even more central, their **high volatility** and recent **market turmoil**, including several bankruptcies in recent years, have underscored the **urgency** for **regulators** to introduce comprehensive **regulatory frameworks**
- In this context, the **European Union**, as part of its strategy outlined in the **'Digital Finance Package**,' has aimed to establish a **harmonized crypto-asset regulatory framework** across all member states
- The **full enforcement** of **MiCAR** on **31/12/2024** represented a significant **milestone** as the **first cross-jurisdictional regulatory** and **supervisory framework** for **crypto-assets**

At a Glance

Keywords: MiCAR, Crypto-asset, CASPs

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MiCAR: Scope&Goals

Digital Asset Regulation: The European Approach

A Brief Overview

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Digital Asset Regulation: The European Approach

The **strategic approach** of the **European Union** has always aimed to **minimize market fragmentation** in the **regulatory treatment** within the Union's Members and **boost** the **financial innovation** of the European financial market.
The first step of this process can be traced back to the publication of the "**Digital Finance Package**" in **September 2020**, which included **strategies** and **legislative proposals** on **crypto-activities** and **other digital initiatives.** This initiative aimed to set an **example** for other countries in **digital asset regulation** and to **foster more innovative, technology-driven, and competitive financial markets.** **MiCAR** (Markets in Crypto-Asset Regulation) represents the latest milestone of this process.

2020

5th EU Anti-Money Laundering Directive (5AMLD) required **crypto exchanges** and **wallet providers** to comply with **EU AML/CFT regulations**

Digital Finance Package that outlined two classes of intervention:

- The **"Renewed strategy for modern and safe retail payments"**
- The "**Digital Finance Strategy"** (e.g. 5AMLD, MiCAR)

2022

Digital Ledger Technologies Regulation that established a **temporary six-year exemption** from current **EU financial regulation** for financial players to allow the **creation** of **DLT-based financial architectures**

2023

MiCAR (Markets in Crypto-Asset Regulation) official publishing as the **first cross-jurisdictional regulatory** and **supervisory framework** for **crypto-assets**

2024

The **MiCAR** provisions started to apply:

- **30/06/2024** for issuers of **ART** (Asset Referenced Tokens) and **EMT** (E-Money Tokens)
- **31/12/2024** for **CASPs** (Crypto-Asset Service Providers) and other general provisions

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A Brief Overview

Just in Time

With its **full enforcement** starting on **31/12/2024**, **MiCAR** marks a significant **milestone** in the global financial landscape as the **first cross-jurisdictional regulatory** and **supervisory framework** for **crypto-assets**, aiming to **harmonize** a shared **framework** among all **EU members.**

Goals

MiCAR aims to ensure a **unified legal regime** governing **crypto-assets** across Europe, **harmonizing** the **legal treatment** of crypto-assets and **avoiding** the **risk** of regulatory **fragmentation** and different treatments among **Union members**.
The **Framework sets** the **rules** and the standards for:

- **Crypto-assets**
- **Issuers**
- **Service providers**

Assets

MiCAR covers all the **crypto-assets** that do **not already** fall under the **existing** regulatory **frameworks** (e.g., MiFID), in particular:

- **ART** (Asset Referenced Tokens)
- **EMT** (Electronic Money Tokens)
- **Utility Tokens**

Firms

All the **European Firms** that aim to offer any **crypto-related service** will fall under the **MiCAR**.
MiCAR allows **non-EU** firms to provide services under "**reverse solicitation**", meaning they can respond to EU customers' initiatives under strict conditions

Services

MiCAR regulates **services** similar to **MiFID**, requiring **CASPs** (Crypto-Asset Service Providers) to obtain a **license**.
However, it does not specifically address services like crypto-asset lending

Out of Scope

Some other famous **crypto-assets** typologies and services **won't fall under MiCAR** regulation, in particular:

- **CBDC**
- **NFT** (falls under MiCAR only under particular circumstances)
- **DeFi Protocols**

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MiCAR: Regulatory Framework

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Crypto-Assets

Just in Time

MiCAR defines **crypto-assets** as "**digital representation** of value or rights which may be **transferred** and **stored electronically**, using **distributed ledger technology** or **similar technology**" and recognizes them as the **focal point** of the **framework** distinguishing **three main categories** of **crypto-assets** (ART, EMT and Utility Tokens). **Non-Fungible Tokens** (NFTs) are **not regulated** by **MiCAR** except when they are **fractionalized** and **tradable** (making them effectively fungible) or represent economic rights (e.g. ownership in funds, real estate or other assets).

Asset-Referenced Tokens

ART (Asset-Referenced Tokens) are **crypto-assets** that are **not electronic money tokens** and aim to maintain a **stable value** by **referencing** another **value** or **right**, including **official currencies**.
SART (Significant Asset-Referenced Token) is a MiCAR-defined subcategory of ART. An asset is classified as **SART** if it meets at least **three** of the following **criteria**:

- **> 10 million** holders
- **> €5 million** in issued value or reserves
- **> 2.5 million** transactions in a reference period
- **> €5 million** in transaction value in a reference period
- The issuer is a **gatekeeper** of digital services (EU Regulation 2022/1925)
- Activities are **internationally relevant** (e.g., payments, remittances)
- **High interconnection** between the ART issuer and the financial system
- The issuer manages **multiple ARTs or EMTs**

Electronic Money Tokens

EMT (Electronic Money Tokens) are **crypto-assets** that aim to **maintain** a **stable** value by referencing the value of **one official currency**.
SEMT (Significant Electronic Money Token) is a MiCAR-defined subcategory of EMT. An asset is classified as **SEMT** if it meets at least **three** of the following **criteria**:

- **> 10 million** holders
- **> €5 million** in issued value or reserves
- **> 2.5 million** transactions in a reference period
- **> €5 million** in transaction value in a reference period
- The issuer is a **gatekeeper** of digital services (EU Regulation 2022/1925)
- Activities are **internationally relevant** (e.g., payments, remittances)
- **High interconnection** between the ART issuer and the financial system
- The issuer manages **multiple ARTs or EMTs**

Utility Tokens

Utility Tokens are **crypto-assets** that are only **intended** to provide **access** to a **good** or a **service** supplied by their issuer.
MiCAR **does not regulate all utility tokens**, but only those that:

- Are **offered publicly** within the **EU**
- Are **admitted to trading on a crypto-asset platform**

If a **utility token** is purely used within a **closed system**, it **may fall outside MiCAR**'s scope.
Summarizing, **utility tokens** fall under **MiCAR** when they incorporate **investment features**, such as granting financial rights, offering profit expectations, or being actively traded beyond their intended use within a platform

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Crypto-Asset Service Providers - Overview

Crypto-Asset Service Providers under **MiCAR** are defined as **legal entities** or other **undertakings** whose **core business** involves providing one or more **crypto-asset services** to clients on a **professional** and **organized basis**. **CASPs** include entities offering **services** related to **crypto-assets**, such as **exchange**, **transfer**, **custody**, and **administration**. **MiCAR** outlines the **steps required** to obtain **authorization** to **operate** as a **CASP**, the **obligations** of CASPs, and the **types** of **services** they are permitted to provide.

Authorization

- **Submission:**
  Entities must submit a detailed application to the relevant National Competent Authority (NCA), which includes data such as legal forms and services to be provided
- **Supervisory Review:**
  Once the application is submitted, the relevant NCA will start the review process detailed as:
  - **5 bd** for **acknowledging** receipt of the submission
  - **25 bd** for **compliance checks** on the documentation
  - **40 bd** for the **approval/rejection** notification
- **Compliance & Oversight :**
  After authorization, CASPs must comply over time with MiCAR requirements

Obbligations

- **Operate in Clients Interests:**
  CASPs must act honestly, fairly, and in clients' best interests
- **Transparent Communication:**
  The information must be fair, clear, and not misleading with no misrepresentation of crypto-asset benefits
- **Risk Disclosure:**
  Clients must be warned about risks, with white paper links provided for relevant services
- **Pricing Transparency:**
  Pricing, costs, and fees must be publicly accessible
- **Environmental Impact:**
  Environmental impacts must be publicly accessible

Services

- **Custody**, **administration,** and **transfer services** of crypto-assets on **behalf** of **clients**
- **Operation** of a **trading platform** for crypto-asset
- **Exchange** of **crypto-assets** for **funds**/for **other crypto-assets**
- **Execution** of **orders** for crypto-assets on behalf of **clients**
- **Placement** of crypto-assets
- **Reception** and **transmission** of **orders** for crypto-assets on behalf of clients
- Providing **advice** and **portfolio management** on crypto-assets

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Crypto-Asset Service Providers - Three Distinct Classes

MiCAR defines **three** distinct **classes** of **Crypto-Asset Service Providers** (CASPs) based on **minimum capital requirements**.
For each class, the **regulation** outlines the **specific services** that **CASPs** are **authorized** to **provide**, ensuring that the scope of operations aligns with their financial capacity and the associated risks.

	Class 1	Class 2	Class 3
Capital Requirements	**EUR 50.000**	**EUR 125.000**	**EUR 150.000**
Services	• **Execution** of **orders** on behalf of clients • **Placement** of **crypto-assets** • **Providing transfer services** for crypto-assets on behalf of clients • **Reception** and **transmission** of **orders** for crypto-assets on behalf of clients • **Providing advice** on crypto-assets • **Providing portfolio management** on crypto-assets	• **Any crypto-asset services under class 1** • **Providing custody** and **administration** of crypto-assets on behalf of clients • **Exchange** of **crypto-assets for funds** • **Exchange** of **crypto-assets for other crypto-assets**	• **Any crypto-asset services under class 2** • **Operation** of a **trading platform** for crypto-assets

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The White Paper

Under **MiCAR** a '**Crypto-Asset White Paper**' is an **information document** containing **mandatory disclosures**. It should contain **general information** on the **issuer**, **offeror** or **person seeking admission to trading**, on the **project** to be **carried** out with the **capital raised**, on the **offer** to the **public** of **crypto-assets** or on their **admission** to **trading**, on the **rights** and **obligations** attached to the **crypto-assets**, on the **underlying technology used** for such crypto-assets and on the **related** risks.

WHO

- **Offerors**
- **People** seeking **admission** to **trading**
- **Operators** of **trading platforms** for **crypto-assets** other than asset-referenced tokens or e-money tokens

REQUIREMENTS

- **Cover** offeror, issuer, trading platform operator, project details, offer structure, rights, risks, and environmental impact
- **Ensure accuracy,** avoid misleading content
- State **no EU authority approval,** offeror bears full responsibility
- **No speculative claims** on price increases
- **Highlight risks** of value loss, illiquidity, non-transferability, and lack of investor protection
- Issuer must **confirm compliance** and accuracy
- Include a **non-technical summary**, **date** and **table** of **contents**

GOALS

- **Ensure transparency** with clear, accurate, and non-misleading information
- **Prevent fraud**, misleading claims, and speculative price predictions
- **Establish a legal framework** for issuers and service providers under EU supervision
- **Mandate risk disclosures** on potential losses, illiquidity, and lack of guarantees
- **Require transparency** on the environmental impact of **consensus mechanisms**
- **Develop uniform documentation**, including white papers, for market consistency
- **Hold issuers** and operators accountable for **accuracy** and **completeness**
- **Reduce systemic risks** by enforcing compliance with structured requirements

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Supervisory Framework

Just in Time

MiCAR establishes a **multi-level supervisory framework** aimed at **coordinating** and **harmonizing** the **activities** of **different regulators** across the **Union** in overseeing crypto-asset activities. It defines **distinct responsibilities** and assigns **specific roles** to both **national** and **European supervisory authorities.**

NATIONAL COMPETENT AUTHORITIES (NCAs)

Each Member State **designates** the **National Competent Authorities** responsible for carrying out the **tasks provided** in the **regulation** and **notifies** the **EBA** and **ESMA** of these authorities

Following **national law**, National Competent Authorities have **supervisory** and **investigative powers** and may **prohibit** or **restrict**, within or from their Member State:

- **Crypto-assets** with specific characteristics
- **Activity** or **practice related to crypto-assets**

NCAs shall **not impose** a prohibition or restriction if it has **not disclosed** to all other competent authorities and **ESMA** or **EBA** at least **one month** before the date on which it is expected or **24 hours** before for an **interim measure** on a provisional basis

EUROPEAN BANKING AUTHORITY (EBA)

The **EBA facilitates** and **coordinates** the measures taken by the **NCAs** and **gives an opinion** to confirm that the **prohibitions** or **restrictions** are justified and proportionate

The **EBA establishes, manages and chairs a supervisory advisory college** for each issuer of a **Significant Asset-Referenced Token** or a **Significant Electronic Money Token** to **facilitate** the exercise of **supervisory functions** and coordinate supervisory activities

Concerning **issuers of Significant Asset-Referenced Tokens** and **issuers of Significant Electronic-Money tokens**, **EBA** can:

- **Request information**
- **Perform on-site inspections**
- **Exchange information with Competent Authorities**

EUROPEAN SECURITIES AND MARKET AUTHORITY (ESMA)

The ESMA facilitates and **coordinates** the measures taken by the **NCAs** and **gives an opinion** to confirm that the **prohibitions** or **restrictions** are justified and proportionate

The **ESMA takes part in the supervisory advisory** college **established by EBA,** ensuring the coordination between regulatory authorities in:

- **Supervising** crypto-asset activities
- **Facilitating** a **consistent approach** across EU

The **ESMA** establishes **a register** of:

- Crypto-asset **white papers**
- Issuers of **ART**
- Issuers of **EMT**
- **CASPs**
- A **non-exhaustive** register of **non-compliant** entities providing crypto-asset services

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Supervisory Framework – Focus on the Italian Framework

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The Italian supervisory enforcement of **MiCAR** is **divided** between **two** main **national competent authorities**, the **Bank of Italy** and **Consob**, which have different roles and duties. In March 2025, these two authorities jointly **published** a shared protocol outlining the **operative** and **informative coordinated procedures** they will use to assess their duties under **MiCAR.**

Italian National Competent Authorities

Bank of Italy

Under MiCAR, the **Bank of Italy** must fulfill the following roles:

- **Prudential supervision** and **crisis management** of **ART** and **EMT** issuers, as well as **CASPs**
- **Supervision** of **EMT issuers** regarding **transparency**, **fairness**, and **consumer protection safeguards**
- **AML/CFT** supervision of **ART** and **EMT** issuers
- **Product intervention** on **EMTs**, **ARTs**, and **tokens** that do **not qualify** as **EMTs** or **ARTs**

CONSOB

Under MiCAR, **CONSOB** must fulfill the following roles:

- **Supervision** of **ART** issuers and **CASPs** regarding **transparency**, **fairness**, and **consumer protection safeguards**
- **Vigilance** on **public offerings** and **trading admissions** for tokens that do **not qualify** as **EMTs** or **ARTs**
- **Product intervention** on **ARTs** and **tokens** that do **not qualify** as **EMTs** or **ARTs**
- **Prevention** of **market abuse** related to **crypto-assets**

Operative and Informative coordinated Procedures

Information Sharing

The protocol ensures the **timely exchange** of information between the two entities regarding **supervision**, **whistleblowing**, and **cryptocurrency operations**, including the **share** of **documents** and measures **related** to the **temporary intervention** powers of **ESMA and** EBA

Cross border Operations

The protocol governs **cooperation** and **information exchange** between **Italy**, other **Member States**, **ESMA**, and **EBA**. It ensures **timely transmission** of **cooperation requests**, covering token issuers, crypto service providers, irregularities, and **precautionary measures**. It also addresses **requests** for **opinions** on crypto asset classification and shares opinions from **ESMA**, **EIOPA**, or **EBA**

Inspective Powers and Measures Taken

The protocol establishes procedures for timely information **exchange between authorities** on **complaints**, **inspections**, and **regulatory actions**. It covers the **authorization process** for **crypto-related entities**, including **white paper approval** and **license issuance**. The protocol mandates **mutual communication** of adopted **measures**, **findings**, and **AML/CFT actions.** It also includes the **exchange** of **administrative liquidation proposals** for crypto service providers and token issuers

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Enforcement Regime

Supervisors can impose **sanctions** on entities under **MiCAR** in case of **regulatory breaches,** with the **severity** of these sanctions **depending** on the type of **violation** and its **impact** on **market integrity**, **financial stability**, and **consumer protection.**

Financial Fines

Financial penalties imposed on individuals or entities for violating MiCAR rules depend on the **severity of the violation:**

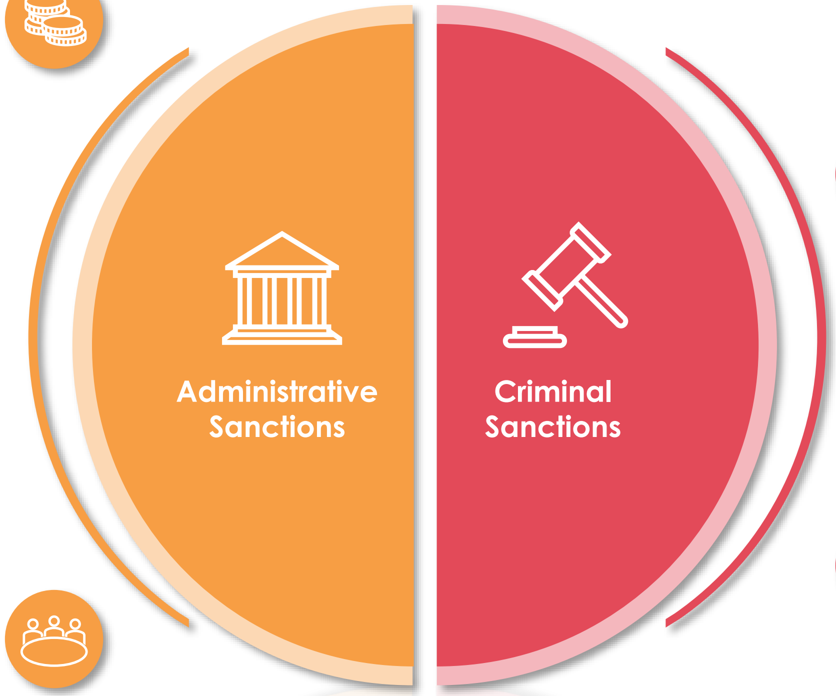
- **ART Issuers:** up to 5 Mln€ or 12,5% yearly turnover
- **EMT Issuers:** up to 5 Mln€ or 12,5% yearly turnover
- **CASPs:** up to 5 Mln€ or 5% yearly turnover
- **Issuers of Crypto-Assets other than ART and EMT:** up to 5Mln€ or 5% yearly turnover

Public Warnings

Supervisors could issue **public warnings** or **notices** to highlight **specific risks** or **concerns** about **non-compliant actors** or **market practices**

Rectifications

Supervisors could ask CAPS to provide changes in their **business models**, provide additional **information** or alter **governance structures**



Service Ban

In cases of **severe non-compliance** or **risk to the financial system**, supervisors may **temporarily** or **permanently ban** CASPs from **offering** certain **services**

National Laws

NCAs of each EU Member State apply their **criminal penalties** for severe breaches of **MiCAR** and can **enforce stricter** criminal laws **beyond administrative penalties**

03

Conclusions

MiCAR Supervisory Activities as Part of EBA Priorities 2025-2027

Outlook for the Banking Industry

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MiCAR Supervisory Activities as Part of EBA Priorities for 2025-2027

In September 2024, the **EBA** published the **Single Programming Document** (SPD) which outlined the **five strategic priorities** for the period **2025-2027** and detailed the **scheme** to **achieve** its **mission** and **mandate** in the next years.
In the outlined priorities, the **EBA underlines** the importance of **implementing** the **supervisory** activities for **MiCAR.**

Crypto-Asset Standing Committee

Founded in 2024 with the goal of **facilitating** and **coordinating supervisory** activities on **crypto-assets**, the **Crypto-Asset Standing Committee** (CASC) will oversee **surveillance activities**, fostering **collaboration** between **supervisory authorities** and strengthening their cooperation

Enhancing Supervisory Capacity

EBA outlined its intention to proceed in a continuous **supervisory-capacity-building process** by promoting:

- Extending **specialized training** for the staff
- Programming **workshops** in collaboration with **NCAs** focused on **crypto-asset supervision techniques**

Non-Binding Opinions

Under MiCAR, the **EBA** will also proceed to fulfill its role in **monitoring crypto-assets** and issuing **non-binding Opinions** (at the request of NCAs) on the regulatory classification of crypto-assets

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Outlook for the Banking Industry

MiCAR represents a pivotal point in **fostering innovation** in the financial markets in Europe, with interesting implications for the **banking industry**. A regulatory framework on crypto-assets will offer a window for potentially **expanding banking offers** while **strengthening** consumer **trust** in these products and promoting a **higher** degree of **integration** between **traditional finance** and **DeFi**.

ART.60

MiCAR Art. 60 gives EU-authorized **banks** the **possibility** to **integrate crypto-asset services** (e.g., custody, trading) into their offerings **without** the need for a **new authorization**. By **notifying** the **relevant national authorities** of their intention to offer such services, **banks** can **quickly enter** the **crypto market**, leveraging their existing licenses and infrastructure. This **simplified process** will **foster** the **offering** of crypto services, enabling **banks** to **enter** the **digital asset market** while maintaining regulatory oversight. **Compliance** with **MiCAR's requirements** on security, client fund protection, and operational protocols is **still required**

Industry Growth

Designing a **simplified process** for traditional financial institutions to **access crypto services** will foster **industry growth**, with traditional players entering the **markets** and potentially leading to **M&A** processes between old and new players

Offer Increase

The possibility of **including crypto-asset-related services** (e.g., tokenized asset custody, issuance and crypto trading) in the **banking** product **offerings** could **strengthen** the current **customer base** while **widening** the plethora of **potential customers**

Financial Innovation

The potential benefits unlocked by **MiCAR** could **drive** the **update** of **current banks' IT architectures** and lead to the **development** of **new systems**, boosting innovation in the financial sector

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Strategy

Strategic advisory on the **design** of **advanced frameworks** and **solutions** to fulfil both **business** and **regulatory needs** in Risk Management and IT departments

Methodology & Governance

Implementation of the designed **solutions** in bank departments **Methodological support** to both **systemically important financial institutions** and **supervisory entities**

Solution

Advanced **software solutions** for **modelling, forecasting, calculating** metrics and **integrating** risks, all on cloud and distributed in Software-as-a-Service (**SaaS**)

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