

MiCAR Series: Navigating the regulatory framework for Asset-Referenced Tokens (ARTs)

13 June 2024

Welcome to the first installment of our Markets in Crypto Assets Regulation (MiCAR) series. Here we introduce MiCAR and look at the application process for ART approval.

As stated by the Central Bank of Ireland, 'The Markets in Crypto-Assets Regulation (MiCAR) introduces a new regulatory framework for European crypto-assets. MiCAR aims to protect consumers and investors and mitigate risks to financial stability.' MiCAR will change the landscape of crypto assets by bringing certain types of assets into the regulatory framework, most notably, Asset-Referenced Tokens (ARTs), E-Money Tokens (EMTs) and utility tokens.

ARTs can be described as a type of 'stable' coin as they attach their value to a broader class of assets (e.g. multiple currencies, commodities or cryptocurrencies), in comparison to EMTs which link to a single currency and utility tokens that give access to a product or service supplied by the issuer.

MiCAR stipulates that the issuance and trading of ARTs are exclusive to approved legal entities within the EU or institutions who have received authorisation via a white paper document. Because of this, the EBA is required to develop two technical standards under MiCAR to standardise the application for those seeking to trade in ARTs.

To assist with this, the European Banking Authority (EBA) published a Final Report regarding its draft regulatory technical standards (RTS) and implementing technical standards (ITS) for issuers of ARTs under the MiCAR. This is a significant development in the crypto and virtual asset landscape with MiCAR being the most advanced legislation to date in the sector. These EBA standards aim to help applicants better navigate the application process, by providing them with a scope of the information and methodology required to apply. The standards have been developed with consideration from the European Securities and Markets Authority (ESMA), as well as being in accordance with articles 18(6) and 18(7) of MiCAR.

There are two key dates in which MiCAR will become applicable:

- 30 June 2024 for issuers of ARTs and E-Money Tokens (EMTs)
- 30 December 2024 for utility tokens and crypto asset service providers (CASPs).

The EBA's draft RTS outlines specific December criteria and required information that is necessary for obtaining ART authorisation. Applying institutions will be required to scrutinise many aspects of their organisation and all applicants must provide:

The applicant's identity, business model and financial information.

- The main aspects and features of the ART.
- Their internal governance and organisational structure.
- Significant information on all members of the management body.

- A list of shareholders and their holdings.

The draft implementing technical standards sets out a standard and thorough application process which must be followed to be approved. This template provides a clear and concise route to those wishing to trade ARTs. This includes details on how to apply through the information regarding requests and the templates provided for applicants.

Next week we will look at the CBI guidance for Virtual Asset Service Providers (VASP) seeking to apply as a Crypto Asset Service provider under MiCAR.

How can we help?

Our Prudential Risk experts recognise that regulations remain a pivotal driver for the strategic priorities of financial institutions. Our team excels at helping clients within the financial services sector navigate the intricate web of regulations. We work alongside our clients to identify their regulatory responsibilities and develop strategies for full compliance.