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MiCAR: Updates to the Central Bank's MiCAR Webpage

12 September 2024

On 10 September 2024, the Central Bank of Ireland (Central Bank) updated its Markets in Crypto Assets Regulation (MiCAR) web page to reflect recent developments and expand on its views regarding the implementation of the new EU framework for the regulation of crypto-assets.

The Central Bank, which will be designated as the Irish National Competent Authority (**NCA**) in respect of MiCAR, has helpfully provided an **infographic** on the authorisation process for Crypto Asset Service Providers (**CASPs**) and a **MiCAR – frequently asked questions** document, which includes information on the Central Bank's expectations of crypto firms regarding the MiCAR authorisation process and the Central Bank's policies in this regard.

These can be read in conjunction with Central Bank comments on preparation for MiCAR at an industry event held on 18 July 2024. For further information please see our article [here](#).

The Central Bank's updated MiCAR web page will assist existing issuers of Asset Reference Tokens (**ARTs**) and Electronic Money Tokens (**EMTs**) and potential CASPs.

Application of MiCAR

MiCAR became applicable to issuers of ARTs and EMTs on 30 June 2024 and will become applicable to CASPs on 30 December 2024.

1. Issuers of ARTs and EMTs

In a new section on the MiCAR web page dealing with issuers of ARTs and EMTs' Central Bank engagement, the Central Bank asks any person or entity (e.g., credit institution or electronic money institution) intending to offer or trade ARTs/EMTs to contact the authorisation team or their supervision team (as appropriate) as early as possible and for further guidance.

EBA Statement on the application of MiCAR to ARTs and EMTs

The Central Bank also points to a recent European Banking Authority (EBA) Statement (dated 5 July 2024) on the application of MiCAR to ARTs and EMTs in which the EBA outlines, among other things, its expectation that from 30 June 2024, stakeholders carrying out ART/EMT activities should assess their

compliance with MiCAR and refrain from carrying out services which constitute offering to the public, seeking admission to trading, or placing non-compliant ARTs/EMTs.

The Central Bank expects firms listing stablecoins that are not compliant with MiCAR to implement these actions as soon as possible and aim to complete this work by year-end 2024.

The Central Bank also states that it has not to date approved or been notified of any crypto-asset white paper for an ART or EMT under MiCAR issued by any Irish undertaking.

EBA Statement on supervisory priorities for issuers of ARTs and EMTs

On 5 July 2024, in a separate statement issued for the attention of persons issuing to the public, offering to the public, or seeking admission to trading of ARTs and EMTs and for consumers, the EBA sets out key topics for supervisory attention across the European Union for issuers of ARTs/EMTs in 2024/2025.

In relation to measures relating to white papers, governance, complaints handling, own funds, reserve assets, recovery and redemption plans, although they are not yet finalised, the EBA strongly encourages issuers and offerors of ARTs/EMTs to have regard to documents available on the EBA website. Moreover, they are encouraged to keep apprised of related legislative developments and adjust as if the technical standards available on the EBA website were fully applicable, pending completion of the final steps in the legislative process.

2. Authorisation of Crypto Asset Service Providers

The Central Bank has helpfully reminded applicant firms of the following related matters.

ESMA Opinion on global crypto firms using their non-EU execution venues

On 31 July 2024, the European Securities and Markets Authority (**ESMA**) issued an [Opinion](#) to address the risks presented by global crypto firms seeking authorisation under MiCAR for part of their activities (crypto brokerage) while keeping a substantial part of their group activities (intra-group execution venues) outside EU regulatory scope. ESMA recommends that NCAs are vigilant during the authorisation process and assess the business structures of global firms to ensure that they do not bypass obligations established in MiCAR, to protect consumers and to ensure the transparent and orderly functioning of crypto markets.

The opinion calls for a case-by-case assessment of each applicant firm, outlining the specific requirements that should be met regarding best execution, conflicts of interest, the obligation to act honestly, fairly and professionally in the best interests of clients and the obligation relating to the custody and administration of crypto-assets on behalf of clients.

Central Bank engagement

The length of time that a CASP application will take will largely depend on the nature, scale, and complexity of the applicant firm and the extent of its preparedness. Moreover, the completeness of the application and the firm's ability to engage in robust discussions on its proposal will have a critical impact on authorisation timelines.

Twelve-month transitional period

Following a public consultation on Member State discretions in MiCAR, the Irish Department of Finance confirmed that the transitional period will last a maximum of 12 months and end on 29 December 2025.

The simplified procedure for applications for CASP authorisation is not applicable for firms operating as VASPs

The Central Bank has confirmed that as the VASP regime in Ireland is an AML/CFT framework and registration process, as opposed to an authorisation process, the VASP regime is not sufficient for the simplified procedure envisaged in MiCAR. For further information please see our article [here](#).

Passporting under a MiCAR licence

A CASP may provide crypto-asset services on a cross-border basis, subject to a CASP submitting complete information to its NCA, as specified below:

- A list of the Member States in which it intends to provide crypto-assets services;
- The crypto-asset services which it intends to provide on a cross-border basis;
- The starting date of the intended provision of the crypto-asset services; and
- A list of all of the other activities not covered by MiCAR which the CASP provides.

VASPs

Since 2 May 2024, given the length of time a VASP registration typically takes, the Central Bank has advised applicant VASPs to pursue a CASP application to continue to operate and avail of transitional arrangements until authorisation as a CASP after 30 December 2024. Where a VASP is registered and operating as a VASP by 30 December 2024, it may avail of the transitional arrangements under MiCAR, but as per the current regime, it will not have any passporting rights under the Irish VASP regime to provide its services in other jurisdictions. Any VASP not intending to apply for a MiCAR authorisation should establish clear wind-down plans and make arrangements to cease providing services by the end of the 12-month transitional period. For further information please see our articles [here](#) and [here](#).

Convergence around authorisation and supervision

The Central Bank is working with EU colleagues through supervisory coordination networks to build convergence around authorisation and supervisory expectations and processes.

Other regulatory/supervisory resources

The European Supervisory Authorities (**ESAs**) have also developed respective Q&A tools that crypto firms can use as useful sources of information.

We will continue to monitor Central Bank updates regarding MiCAR authorisation and notification processes. For further information on MiCAR, including our briefing document on the process and requirements for securing authorisation as a CASP from the Central Bank of Ireland, please visit our MiCAR hub [here](#).

Contact Us

William Fry's Band-1 ranked [Financial Regulation](#) team has a strong track record of securing regulatory authorisations and registrations successfully and efficiently for a wide range of regulated FinTechs including VASPs, payment institutions, crowdfunding service providers and one third of the electronic money institutions authorised in Ireland to date. If you are considering applying for authorisation under the MiCAR regime, please contact [Shane Kelleher](#), [Louise McNabola](#) or your usual William Fry contact.

Contributed by [Jane Balfe](#).