



REGULATION 2023/1114 ON MARKETS IN CRYPTO- ASSETS

Matter solved and
unsolved

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Solved

Framework for CA

MICAR Scope

Crypto-assets offerors /admission to trading of crypto-assets on a trading platform

Asset-referenced token issuers (ART)

E-money token issuers (EMT)

New actors: Crypto-asset services providers (CASP)

MICAR Scope

Credit institutions

Investment firms

E-money institutions

MICAR Scope

All types of crypto-assets which currently fall outside the scope of existing EU legislation on financial services

Crypto assets in general

Asset-referenced tokens (= global stable coins)

E-money tokens (= payment tokens – 1:1: stable coins)

MICAR Framework

Transparency regime for the issuance, offer to the public and admission of crypto-assets (CA) to trading on a trading platform for CA

Authorisation/Supervisory regime for issuers of ART

A notification and supervisory regime for issuers of EMT

Authorisation/Supervisory regime for CASPs

Protection of holders of crypto-assets and of clients of CASPs

Measures to prevent insider dealing, unlawful disclosure of inside information and market manipulation

MICAR Exemptions

Credit institutions

**Investment
firms**

**When issuing
asset-referenced
tokens, including
significant tokens**

**Providing one or
more crypto-asset
services**

**authorised to
provide one or
several investment
services similar to
the crypto-asset
services**

MICAR Transparency regime

Crypto-assets offerors /admission to trading of crypto-assets on a trading platform

Crypto-asset means a digital representation of a value or a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology

MICAR Transparency regime

Transparency regime requirements

Legal entity

Crypto asset-
white paper
notified and
published

Marketing
material

MICAR Transparency regime

Content and form of the crypto-asset white paper

offeror
project

crypto asset

legal opinion

underlying technology

Information on
principal adverse
environmental and
climate related impact
of the consensus
mechanism used to
issue the crypto-asset

...

MICAR Transparency regime

Transparency regime exemptions

Crypto-assets that are offered for free (except: Data!)

Crypto-assets that are automatically created through mining as a reward for the maintenance of the DLT or the validation of transactions

Offer concerns a utility token providing access to a good or service that exists or is in operation

Limited network exemption

Holder of the crypto-asset has the right to use it only in exchange for goods and services in a limited network of merchants with contractual arrangements with the offeror

MICAR Transparency regime

No white paper/public marketing

Crypto-assets are offered to fewer than 150 natural or legal persons per Member State where such persons are acting on their own account

Over a period of 12 months, the total consideration of an offer to the public of crypto-assets in the Union does not exceed EUR 1 000 000, or the equivalent amount in another currency or in crypto currencies

The offer to the public of the crypto-assets is solely addressed to qualified investors and the crypto-assets can only be held by such qualified investors

MICAR ART Authorisation regime

ART Authorisation regime

Asset-referenced token means a type of crypto asset that is not an EMT and that purports to maintain a stable value by referencing another value or a right or combination thereof including one or more official currencies.

MICAR ART Authorisation regime

ART Authorisation regime requirements

EU based legal entity

White paper, Governance rules, own funds requirements,
Legal opinion

Complaint handling procedure, conflicts of interest procedure
Wind down plan...

Obligations related to the reserve of assets: the risks associated to the assets referenced by the asset-referenced tokens are covered; and the liquidity risks associated to the permanent rights of redemption of the holders are addressed and to have a custody policy of reserve assets in place

MICAR ART Authorisation regime

ART Exemption regime requirements

Over a **period of 12 months**, the average outstanding amount of asset-referenced tokens **does not exceed EUR 5.000.000** (or equivalent amount in another currency)

The offer to the public of the asset-referenced tokens is solely addressed to qualified investors and the asset-referenced tokens **can only be held by such qualified investors**

The issuer is a **credit institution**

MICAR EMT Notification regime

EMT notification regime

E-money token means a type of crypto-asset that purports to maintain a stable value by referencing the value of one official currency.

MICAR EMT Notification regime

EMT regime requirements

authorised as a credit institution or as an electronic money institution

comply with requirements applying to electronic money institutions

white paper

Specific redemption obligation

MICAR EMT regime

EMT exemption regime requirements

E-money tokens marketed, distributed, held by qualified investor and can only be **held by qualified investors**

If the average outstanding amount of e-money tokens **does not exceed** **EUR 5 000 000**, or the corresponding equivalent in another currency, over a **period of 12 months**, calculated at the end of each calendar day.

Holder protection

Issuers of ART/EMT shall act honestly, fairly and professionally in the best interest of the holders of the tokens

Liability rules for issuers - upon evidence provided by the holders of crypto-assets

Redemption regime

MICAR Significant ART/EMT

Specific requirements Significant ART/EMT

Number of holders > 10 million

interconnectedness with the financial system

value of the token issued > 5 000 000 000

the average number and average aggregate value of transactions in the token per day during the relevant period, > 2,5 million transactions and EUR 500 000 000 per day

MICAR Significant ART/EMT

Specific requirements Significant ART/EMT

the issuer of the token is a provider of core platform services designated as a gatekeeper

the fact that the same issuer issues at least one additional asset-referenced token or e-money token and provides at least one crypto-asset service.

the significance of the activities of the issuer of the token on an international scale, including the use of the token for payments and remittances;

Crypto-asset service providers

Crypto-asset service provider' means legal person or other undertaking whose occupation or business is the provision of one or more crypto-asset services to clients on a professional basis and that is allowed to provide crypto-asset services in accordance with the regulation

CASP services

the custody and administration of crypto-assets on behalf of third parties

the operation of a trading platform for crypto-assets

the exchange of crypto-assets for funds/crypto-assets

the execution of orders for crypto-assets on behalf of third parties

placing of crypto-assets

the reception and transmission of orders for crypto-assets on behalf of third parties

providing advice on crypto-assets

providing transfer services for crypto-assets on behalf of third parties

providing portfolio management on crypto-assets

Requirements to be fulfilled by all crypto-asset service providers

Legal person

Authorised

Governance and own funds requirements

Rules on outsourcing / Complaint handling procedures and on conflicts of interest ...

Specific requirements dependent on the type of crypto-asset service provided

Holder protection

CASPs shall act honestly, fairly and professionally in the best interest of the holders of asset-referenced tokens

Prudential requirements

Rules on safekeeping of clients' funds

MICAR Supervisory regime

Supervisory regime

ART/EMT/CASP - NCA

SI ART & SI EMT- EBA

Unsolved matters

Defi

Staking

Lending/Borrowing

NFT

MICAR

DEFI

Recital 22 CA services
provided in a decentralised
manner without any
intermediary are out of scope

Stacking

Technically and financially
interconnected DEFI ecosystems

Token bundling for operational
reasons

Crypto Lending/Borrowing

Transfer of ownership of tokens to the crypto lender in return for a legal claim against the crypto lender + interests

Cash-based credit/securities lending

NFT

Recital 10: Regulation should not apply to crypto-assets that are unique and not fungible with other crypto-assets, including digital art and collectibles

While unique and non-fungible crypto-assets might be traded on the marketplace and be accumulated speculatively, they are not readily interchangeable and the relative value of one such crypto-asset in relation to another, each being unique, cannot be ascertained by means of comparison to an existing market or equivalent asset. Such features limit the extent to which those crypto-assets can have a financial use, thus limiting risks to holders and the financial system and justifying their exclusion from the scope of this Regulation.

BUT: The fractional parts of a unique and non-fungible crypto-asset should not be considered unique and non-fungible. The issuance of crypto-assets as non-fungible tokens in a large series or collection should be considered an indicator of their fungibility.

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Merci /Thank you

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