

MiCAR application timeline



Publication of MiCAR

- MiCAR was officially published in the EU Official Journal on 9 June 2023.

09.06.2023

ESMA/EBA Consultation Package I

- The consultation covers the following: authorization, governance, conflicts of interest, and complaint-handling procedures.

29.06.2023

July 2023

ESMA/EBA Consultation Package III

- The consultation package shall cover the MiCAR mandates with an 18-month deadline.

October 2023

Q1 2024

MiCAR applies in full

- Other titles (Title I, II, V, VI, VII) of MiCAR apply (including the authorization and operating conditions of crypto asset service providers (CASP))
- Transitional period of 18 months starts for virtual currency service providers (VASP) operating currently under AMLD5 (period depending on the decision of the member state)

30.06.2024

30.12.2024

01.07.2026

MiCAR enters into force

- Start of the transitional period of 12/18 months.
- During this period EBA and ESMA shall develop Implementing Technical Standards and Regulatory Technical Standards through three consultation packages.

ESMA/EBA Consultation Package II

- The consultation covers the following: disclosures of information to investors, crypto asset service provider (CASP) governance requirements, and trade transparency rules.

Provisions for issuance and offering of ATRs and EMTs apply

- Title III (Asset Referenced Tokens (ATR)) and Title IV (E-Money Tokens (EMT)) of the MiCAR on the issuance and offering shall apply.

VASPs operating under AMLD5 required to apply for a license under MiCAR

Crypto-assets under MiCAR



Crypto-assets **within** the scope of MiCAR:

- **Asset-References Token (ATR)** is a crypto-asset which maintains its stable value by referencing to another value or right or a combination thereof, including one or more official currencies
- **E-Money Token (EMT)** is a crypto-asset which maintains its stable value by referencing to the value of one official currency
- **Other crypto-assets** are such digital assets which have a digital representation of a value or a right which may be transferred and stored electronically, using distributed ledger technology or similar technology.

Crypto-assets **outside** the scope of MiCAR:

- NFTs only if unique and not fungible with other crypto-assets. MiCAR determines several aspects when NFT should not be considered as unique and non-fungible, e.g., when issuing fractional parts of unique and non-fungible crypto-assets, issuing series or collections, etc.
- Crypto-assets which fall under existing EU financial services legislation (e.g., financial instruments under MiFID II, deposits, funds, insurance products, etc.).
- Crypto-assets which cannot be transferred to other holders (i.e., those accepted only the issuer itself) (e.g., loyalty schemes).

Crypto-asset services and crypto-asset service providers (CASPs) under MiCAR



Services within scope of MiCAR

The following crypto-asset services are included to MiCAR:

- providing custody and administration of crypto-assets on behalf of clients
- operation of a trading platform for crypto-assets
- exchange of crypto-assets for funds
- exchange of crypto-assets for other crypto-assets
- execution of orders for crypto-assets on behalf of clients
- placing of crypto-assets
- reception and transmission of orders for crypto-assets on behalf of clients
- providing advice on crypto-assets
- providing portfolio management on crypto-assets
- providing transfer services for crypto-assets on behalf of clients

Special attention should be put on which crypto-asset services are applicable to the service provider, especially if one is currently operating under AMLD5 (the list of crypto-asset services under MiCAR and AMLD5 do not coincide).

Crypto asset services and crypto asset service providers (CASPs) under MiCAR



New CASPs

- Application to the competent authority, including the following:
 - overview of the applicant, its planned operations, services, instruments etc
 - fit & proper documentation of managers and owners
 - overview of prudential safeguards
 - operating internal rules depending on the crypto-asset services to be provided
 - description of risk management and internal control system
 - technical documentation of IT systems and security arrangements
 - description of segregation and safeguarding of client's funds
 - description of AML/CFT measures to be applied

Proceeding by the competent authority shall last for about 4 – 5 months.

- For passporting the CASP license, an application to the competent authority of the home member state, including the following:
 - list of member states where the CASP plans to provide crypto-asset services
 - intended starting date of providing crypto-asset services
 - types of crypto-assets planned to be provided
 - list of activities of the CASP not regulated

Proceeding by the competent authority shall last for about 1 month.

Crypto asset services and crypto asset service providers (CASPs) under MiCAR



Leverage of existing licenses

- **VASPs operating currently under the AMLD5**
 - Shall have an extended transitional period (up to 18 months from the full application of the MiCAR) and simplified authorisation process. The period of transitional period shall be decided by each member state by the end of June 2024.
 - VASPs wishing to benefit from the CASP license under MiCAR (including passporting regime) may apply for the CASP license prior to the end of the extended transitional period.
- **Other licensed financial institutions**
 - May benefit from their existing license, i.e., depending on the license a financial institution may be allowed to provide certain crypto asset services after a notification to a competent authority. For example, credit institutions may provide all crypto asset service, the investment firms may provide crypto-asset service if authorized to provide equivalent service under investment firm license, etc.
 - Notification must be done to the home member state competent authority.
 - Proceeding by the competent authority shall last for 40 working days.

Issuance and offering of crypto-assets under MiCAR



- **ATRs**

- issuers need to apply for an authorisation (incl approval of white paper), proceeding shall last for 8 – 9 months.
- exemptions:
 - providing crypto-assets over a period of 12 months with an outstanding value \leq 5M EUR; or
 - offer addressed to qualified investors

- **EMTs**

- issuers need to be either authorised credit institutions or e-money institutions
- issuer required to draft and publish a white paper, notification to the home member state competent authority 40 working days prior to publishing a white paper

- **Other crypto-assets**

- issuers required to draft and publish a white paper, notification to the home member state competent authority 20 working days prior to publishing a white paper