

The European Union's MiCA regime

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The European Union adopted the Regulation on Markets in Crypto- Assets in May 2023, the first comprehensive regime for crypto-assets in a large economic area.¹ MiCA regulates the public offering of crypto-assets that are not already covered by existing financial services law. It distinguishes three categories: asset-referenced tokens, which refer to a basket of assets, e-money tokens, which refer to a single official currency, and other crypto-assets. Issuers of asset-referenced tokens and e-money tokens require authorisation and must meet requirements for reserves, redemption and governance, whereas offerors of other crypto-assets must publish a white paper and notify it to the competent authority.

MiCA also regulates crypto-asset service providers. Custody, the operation of trading platforms, exchange, execution of orders, placement, transfer services, advice and portfolio management in crypto-assets require authorisation in a member state, after which an authorised provider can serve clients throughout the Union under a passport. The rules on stablecoins have applied since 30 June 2024. The rest of the regulation has applied since 30 December 2024, with transitional periods of up to eighteen months for providers already active under national law.² Now that the transitional periods have expired, MiCA is fully in force.

MiCA contains no equivalence regime for providers from third countries. A Swiss provider can serve clients in the Union only at their own exclusive initiative, a narrow exception, or through an authorised subsidiary in a member state.³ Several Zug companies have established subsidiaries in Liechtenstein, Germany, Austria, France or other member states and obtained MiCA authorisation there. Liechtenstein, as a member of the European Economic Area, applies MiCA and allows its providers to passport into the Union. This makes it an obvious choice for Swiss providers because of its proximity and its common currency with Switzerland.⁴

1 Notes

1. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets (MiCA), OJ L 150, 9 June 2023, p. 40, eur-lex.europa.eu (CELEX 32023R1114). ↩
2. Regulation (EU) 2023/1114 (MiCA), Art. 149 (Titles III and IV apply from 30 June 2024, the remainder from 30 December 2024) and Art. 143(3) (transitional period for existing providers until 1 July 2026 at the latest), eur-lex.europa.eu. ↩
3. Regulation (EU) 2023/1114 (MiCA), Art. 61 (provision of services at the own exclusive initiative of the client), eur-lex.europa.eu; ESMA, "Final Report on the Guidelines on reverse solicitation under the Markets in Crypto Assets Regulation (MiCA)", ESMA35-1872330276-1899, 17 December 2024, esma.europa.eu. ↩
4. Liechtenstein Financial Market Authority (FMA), "MiCAR", fma.li.li: MiCA was implemented in Liechtenstein through the EEA MiCA Implementation Act (EWR-MiCA-DG), in force since 1 February 2025; TVTG-registered providers could continue under a transitional regime until 1 July 2026. The use of Liechtenstein subsidiaries by Zug companies reflects the author's observation. ↩

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