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Crypto-asset markets: Agreement reached on the European Crypto-Assets regulation (MiCA)

On June 30, 2022, at the end of the inter-institutional negotiations (trilogues) between the Parliament, Council and European Commission, the draft European regulation on markets in crypto-assets ("MiCA") achieved a provisional political agreement. This agreement is welcomed by the Autorité des marchés financiers (AMF), which hopes that this text, which introduces a harmonized framework within the European Union (EU), will enter into application quickly.

A European framework for crypto-asset markets

The European regulation on markets in crypto-assets ("MiCA") is part of a series of measures relating to digital finance in Europe ("Digital finance package"), and aims to regulate crypto-assets that are not covered by existing regulations on financial instruments, by creating an appropriate and balanced European regulatory framework.

This text covers several areas including :

- Public offering and admission to trade tokens ;
- Public offering and admission to trade stablecoins ;
- The provision of services on crypto-assets by providers ;

— Prevention of market abuse on crypto-assets.

This regulation is intended to replace national frameworks put in place by certain EU member states, including the one introduced by the PACTE law (« Loi Pacte ») of May 22, 2019, which established a specific regime in France for the public offering of tokens (ICOs) and digital asset service providers (DASPs).

The MiCA Regulation provides for a mandatory license for crypto asset service providers (CASPs), with similar requirements to the optional licensing under the French regime. Providers licensed under MiCA Regulation will be able to benefit from the European passport and provide their services in all EU countries. Providers will also have to give information about their environmental and climate footprint.

Non-fungible tokens (NFTs) will be excluded from the scope of the MiCA regulation, unless they meet certain criteria laid down in the text or in existing financial instruments regulation. The European Commission is responsible for assessing the need to propose a specific regime for NFTs and the emerging risks of this new market, within 18 months.

Promoting innovation and protecting investors

The AMF is pleased that the European Union is adopting a framework that will create a suitable environment for crypto-asset markets. It will help to increase the competitiveness of French operators, by creating a harmonized framework, and ensure a balance between promoting innovation and protecting investors.

During all phases of its conception, the AMF has remained attentive to developments in the MiCA regulation and has mobilized the first half of 2022 by providing technical support to the French Presidency of the Council of the European Union.

Next steps

This provisional agreement must now be approved by the Council and the European Parliament, before undergoing the formal adoption procedure that will allow it to enter into force and then into application 18 months later. An additional transitional period of 18 months will be granted to operators with PSAN registrations or licenses, who will be able to continue to offer their services to the French public during this period while awaiting their MiCA authorisation as CASP.

The European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) will also have to publish regulations to clarify the implementing measures.

The AMF will work closely with stakeholders and industry associations to clarify the text, anticipate the next steps, and support the transition from the French framework to the European framework.

Read more

📌 Digital finance: agreement reached on European crypto-assets regulation (MiCA)

📌 European Commission: Proposal for a regulation of the European parliament and of the Council on Markets in Crypto-assets

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