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Preparing for MiCA: The early mover advantage

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In June 2022, the Council of the European Union and European Parliament reached a provisional political agreement on the European Commission's landmark proposal for a regulation on markets in crypto-assets (MiCA).² The agreement sets out a holistic approach to the regulation of crypto-asset activities in the European Union and marks the beginning of a new phase as both the financial sector and supervisory authorities turn their attention to readiness for application.³

For the financial sector, firms active in the sector need to gain an early understanding of the new obligations deriving from the regulatory framework, and to adopt a 'compliance by design' philosophy as crypto-asset products and services come to market in the transition phase. Moreover, those firms also need to ensure the proper marketing of products and customer profiling to make sure that consumers possess the skills they need to actually understand crypto-asset features and the value provided to them.

From a supervisory perspective, relevant supervisory authorities need to strengthen their abilities to understand better crypto-asset products and services. Such understanding should namely cover crypto-assets regulatory classification, distribution channels, and the interconnectedness both within and beyond the traditional financial sector. Furthermore, supervisory authorities need to continuously monitor the crypto-asset sector, including the marketing of crypto-assets via non-traditional channels, such as social media.

To support capacity-building by supervisory authorities, the European Banking Authority will continue its actions to facilitate monitoring and assessment of emerging crypto-assets and use cases across the European Union. With strengthened monitoring, we can equip ourselves with the information needed

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² Link to the EU regulation on markets in crypto-assets: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020PC0593>

³ The EU regulation on markets in crypto-assets is expected to enter into force in 2023, with asset-referenced and e-money token provisions applying from 12 months from entry into force, and the rest 18 months after said entry into force.

to ensure an effective enforcement of the requirements under MiCA and surveillance of new or emerging activities that may fall outside its scope but could warrant inclusion in the future.

The European Banking Authority will also continue to act where needed to mitigate any immediate risks, as demonstrated by our warning to consumers in March 2022⁴ issued jointly with the other European Supervisory Authorities, and ongoing thematic analysis. The assessment of risks arising from new developments or uses in this front will continue to be a priority going forward. A case is crypto-asset staking and lending as highlighted in the European Banking Authority's May 2022 report on non-bank lending.⁵ Another is decentralised finance, also known as "DeFi".

The European Banking Authority will also commence actions to prepare to deliver the extensive number of Level 2 mandates assigned to it under MiCA, for which the European Banking Authority will initiate early industry outreach. This outreach will namely include round tables and the publication of at least one discussion paper in addition to the normal consultation process. Crucially, the European Banking Authority will also begin the build-up of its new supervision function for issuers of significant asset-referenced and e-money tokens.

Strengthening the work of international standard-setters, including bodies such as the Basel Committee on Banking Supervision and the Financial Stability Board, and ensuring global coordination, in view of the importance of ensuring a globally consistent approach to the regulation of crypto-asset activities to secure the effective mitigation of risks and the unlocking of opportunities should continue to be a highest priority.

⁴ Link to the European Supervisor Authorities' warning from 17 March 2022: <https://www.eba.europa.eu/eu-financial-regulators-warn-consumers-risks-crypto-assets>. For all European Banking Authority publications on crypto-assets and FinTech, see the European Banking Authority's FinTech Knowledge Hub:

<https://www.eba.europa.eu/financial-innovation-and-fintech/fintech-knowledge-hub>.

⁵ Link to the European Banking Authority's report on non-bank lending from 4 May 2022:

<https://www.eba.europa.eu/eba-provides-its-advice-eu-commission-non-bank-lending#:~:text=In%20this%20Report%2C%20the%20EBA,new%20players%20entering%20the%20market>.