



Bitcoins and other crypto-assets

In the near future, Bitcoins and other crypto-assets will probably be the usual tool when paying for music rights and royalties and streaming user fees. Therefore, a level playing field for market participants is of importance.

In September 2020, the European Commission published a draft regulation on crypto-assets. The so-called Markets in Crypto-Assets Regulation (MiCA) is intended to ensure unambiguous handling of cryptocurrencies and to regulate crypto-asset services and crypto-assets that are not already subject to existing European regulation. The current patchy legal framework in different European countries makes it difficult for companies to start a business in this still very new area. In addition, the different national regulations create unequal opportunities for market participants.

Generally, MiCA will have the greatest impact on issuers, service providers, and trading venues. Crypto issuers in particular will have to comply with an information obligation and publish a white paper on their products that must be submitted to the relevant financial supervisory authority. Further, MiCA determines that crypto service providers, such as crypto-asset custodians and operators of trading venues, must have a registered office in a Member State if they want to offer their products and services in the European Union. For smaller companies and fintechs, the regulation could cause certain disadvantages. In Member States where the market has been virtually unregulated to date, companies face high costs due to, for example, the acquisition of licenses or the costs incurred in connection with reporting requirements or a secure IT infrastructure.

The legislative process is currently still at the first reading stage in the European Parliament. After completion of the process, MiCA is expected to come into force at the end of 2022.

On February 19, 2021, the European Central Bank (ECB) published an opinion on the draft MiCA regulation. In principle, the ECB is generally supportive of MiCA's objectives and its contribution to harmonization, but suggests several adjustments and clarifications. The ECB demands changes with regard to the supervision of so-called asset-referred tokens and sees the need to work out and clarify intersections with other EU regulations concerning financial services. Furthermore, according to the ECB, more detailed discussions are needed concerning which aspects of financial stability and supervision will require stronger regulatory and supervisory oversight by the ECB. As these ECB opinions provide an indication of future policy recommendations and the development of financial regulation, we expect that certain of its proposals will be considered in the further legislative procedure.

We anticipate that the new regulation will not have an extensive impact on German crypto companies since reporting obligations and the handling of crypto-assets specified in MiCA are already covered by existing financial regulations in Germany. This is another reason Germany is already considered a good entry point for companies looking to enter the European crypto market.



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