

Getting Ready for MiCAR

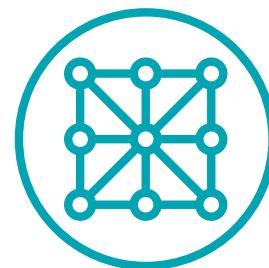
(Markets in Crypto
Assets Regulation)

A practical guide

July 2023

Introduction

The Markets in Crypto Assets Regulation (MiCAR) came into force on June 30, 2023. This regulation requires crypto asset firms to obtain a license to provide their services in the European Economic Area (EEA). To ensure readiness for MiCAR and avoid any surprises, it is important to consider certain factors over the next 18 months.



A Practical Guide to MiCAR

1

Familiarize Yourself with MiCAR:

Start by understanding the key aspects of MiCAR and its implications for your business. MiCAR aims to establish a comprehensive regulatory framework for crypto assets in the EU (European Union). It covers areas such as the issuance and trading of crypto-assets, licensing of crypto-asset service providers, and regulatory obligations for issuers of asset-referenced tokens and electronic money tokens.

2

Review Key Requirements:

Familiarize yourself with the key requirements imposed by MiCAR. This includes transparency and disclosure requirements for the issuance and admission to trading of crypto-assets, as well as licensing requirements for crypto-asset service providers.

3

Assess Applicability:

Determine if your business falls within the scope of MiCAR. MiCAR applies to providers of services in crypto-assets that are not financial instruments under MiFID (Markets in Financial Instruments Directive) II and to persons seeking to issue crypto-assets in Europe. It also applies to investment firms and credit institutions providing investment services or performing investment activities in crypto assets.

A Practical Guide to MiCAR

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4

Understand Key Concepts: Gain a clear understanding of key concepts defined under MiCAR. These include terms like crypto assets, asset-referenced tokens (ARTs), e-money tokens, and utility tokens. Crypto asset services are also defined and cover activities such as custody, trading platforms, exchange services, and order execution.

5

Plan for Compliance: Develop a plan to ensure compliance with MiCAR within the specified timeframe. Compliance efforts may be significant, so it is essential to start early. Review your current operations and identify any gaps or areas that require adjustment to meet MiCAR's requirements.

6

Stay Updated: Keep track of updates and developments regarding MiCAR. Monitor the publication of MiCAR's post-trilogue text in the Official Journal of the European Union for the final approved version. Stay informed about technical standards and guidance that will be issued in the coming months.

7

Seek Legal Advice: Consider seeking legal advice from professionals knowledgeable about MiCAR and its implications. They can provide guidance tailored to your specific business and help ensure compliance with the regulation.

By following these steps, you can prepare your business for MiCAR and ensure compliance with its requirements. Remember that this guide provides a general overview, and it is important to consult official sources, legal professionals, and relevant regulatory authorities for accurate and up-to-date information. Having recognized early on the disruption this technology will cause to the way traditional industries go about their business, Grant Thornton Cyprus set up a specialized business unit offering a series of services to companies that are interested in exploring a whole new world of opportunities opening for them through the implementation of blockchain technology. We service a multiple of industries such as Property Development and Financing, Supply Chain Management, Renewable Energy, E-commerce, Entertainment, Occupational Health and Safety, Finance, among others.

Checklist before December 2023

To ensure compliance with MiCAR (Markets in Crypto-Assets Regulation) before December 2023, it is recommended to follow the checklist below:

- ✓ **Map your activities:** Review the activities your organization carries out and determine if and how they are regulated under MiCAR. This will help you understand the specific requirements and obligations applicable to your business.
- ✓ **Map your customers:** Identify your customers, both retail and professional, and determine their locations. Understand the different activities you carry out for each client type to assess their impact on your compliance with MiCAR.
- ✓ **Map your Geography:** Determine where your services are being conducted from. Check if you are already based in the European Economic Area (EEA) or if you provide services on a cross-border basis. Consider any EEA entities or employees you have and evaluate the activities they are engaged in.
- ✓ **Regulatory Engagement:** Assess if you have engaged with regulators in EEA jurisdictions. If not, consider initiating dialogue with relevant regulators to seek guidance and ensure alignment with MiCAR requirements.
- ✓ **AML Registrations:** Determine which jurisdiction you want to obtain an Anti-Money Laundering (AML) registration in to benefit from grandfathering. Evaluate the pros and cons of each jurisdiction. Meeting AML compliance is essential to adhere to regulatory obligations and combat money laundering.
- ✓ **Grandfathering:** If you are already registered in an EEA jurisdiction by December 2024, you should be able to grandfather your existing registration to obtain MiCAR authorization. Consider transitioning your customers to that entity well in advance to streamline the process.

It is important to note that the information provided above is a general checklist and not exhaustive. Each organization should seek legal advice and consult relevant regulatory sources to ensure full compliance with MiCAR requirements.



Checklist before June 2023

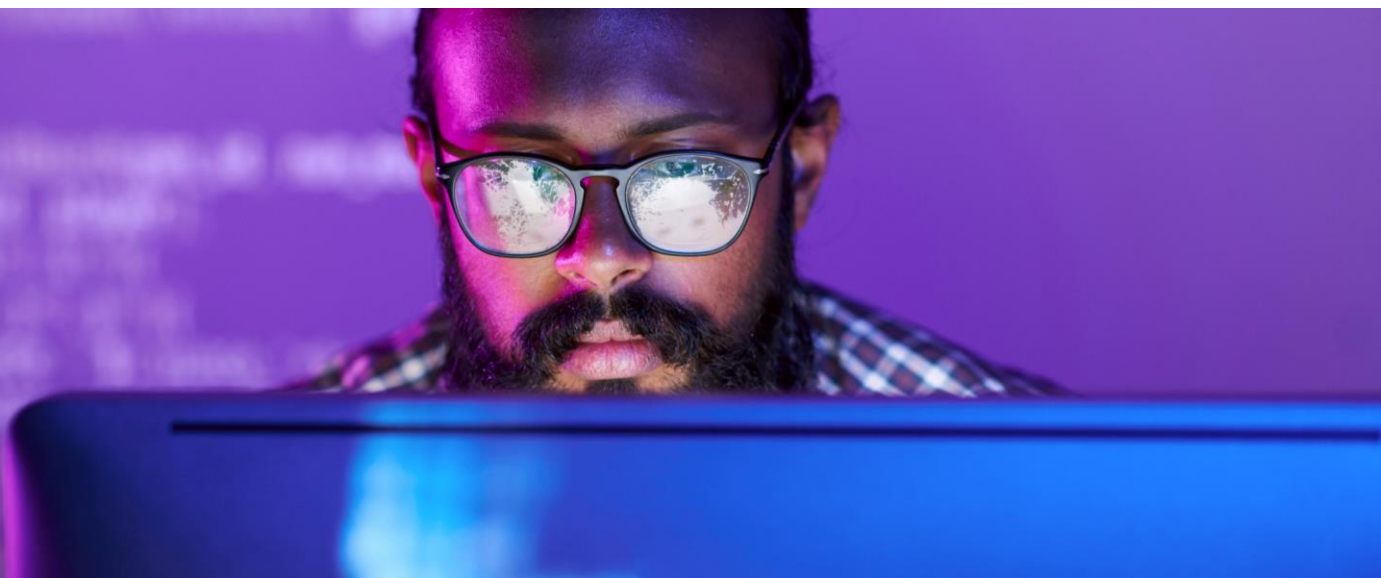
Before June 2024, there are several important considerations and actions to take regarding the Markets in Crypto-Assets Regulation (MiCAR) and related topics. Here is a checklist to address these items:

- ✓ **Think about Stablecoins:** MiCAR rules applicable to Electronic Money Tokens and Asset-Referenced Tokens come into effect earlier than other areas. It is crucial to evaluate how these rules will impact your business.
- ✓ **Review Level 2 Legislation and Goldplating:** Examine the level 2 legislation related to MiCAR and assess its potential impact on your operations. Additionally, consider whether any jurisdictions are implementing additional requirements beyond the MiCAR framework, known as goldplating.
- ✓ **Consider UK Activities:** If you have cross-border activities from the European Economic Area (EEA) into the UK, ensure compliance with new UK legislation considering Brexit and evolving regulatory frameworks.
- ✓ **Token Categorization:** Determine the assets you intend to offer and categorize them based on whether they are Utility Tokens, Asset-Referenced Tokens, Electronic Money Tokens, Crypto assets, or securities.
- ✓ **Whitepaper Requirements:** Evaluate the assets you plan to list and determine if you have whitepapers for them. Understand any whitepaper obligations imposed by MiCAR.
- ✓ **Fast-Track Procedures:** Familiarize yourself with the process for converting an AML (Anti-Money Laundering) Registration into a MiCAR authorization. Keep in mind that different regulators may apply this process differently.
- ✓ **Custody and Liquidity:** Assess where you source liquidity and how you plan to custody assets. Confirm whether arrangements with third-country entities are permissible and comply with applicable regulations.
- ✓ **Pick your Jurisdiction:** Based on the considerations mentioned above, select the MiCAR jurisdiction that aligns with your business needs. Consider factors such as tax regulations, crypto-friendliness, timing, workforce requirements, substance requirements, and whether regulators are shortening grandfathering provisions.

Checklist before December 2024

Before December 2024, there are several key items to consider in relation to the MiCAR (Markets in Crypto-Assets) regulation.

- ✓ **MiCAR Application:** Start preparing your MiCAR application as early as possible, even before the application processes open. Applying early will give you the best chance of obtaining your license.
- ✓ **Prudential Requirements:** Ensure you have sufficient capital to meet the prudential requirements for authorization. MiCAR imposes capital requirements for certain crypto-asset service providers and issuers of asset-referenced tokens and e-money tokens.
- ✓ **Policies and Procedures:** Review all your policies and procedures to ensure they are up to date and in place before submitting your MiCAR application. Compliance with regulatory requirements is essential.
- ✓ **Group Structure:** Consider your group structure and whether you need to incorporate new subsidiaries or branches to comply with MiCAR's requirements.
- ✓ **Compliance Requirements:** Review the relevant compliance requirements under MiCAR and ensure that you meet them before the full application of MiCAR on 30 December 2024. This includes transparency and disclosure requirements, licensing obligations, and more.
- ✓ **Compliance during Grandfathering:** Determine how you will operate under your AML (Anti-Money Laundering) registration during the grandfathering period. Remember that passporting is only available once you have obtained your MiCAR license. Consider whether you can continue to use reverse enquiry in other member states and check if there have been any changes to the grandfathering periods in other member states.



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- Internal audits of various entities
- Independent Business Reviews (IBRs)
- Virtual Asset Service Providers' services
- Advisory Services
- Consulting enterprises addressing business challenges with blockchain technology

Professional qualifications and memberships:

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