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The Distributed Ledger

Blockchain, Digital Assets and Smart Contracts

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Fit for Purpose? European Commission Launches Review of MiCA

Executive Summary

- **What's new:** The European Commission has launched a consultation on the review of MiCA, giving market participants until the end of August 2026 to submit comments on whether the regulation remains fit for purpose.
- **Why it matters:** The consultation is directed at financial institutions, cryptoasset service providers, national competent authorities, central banks and ministries of finance, and explores whether MiCA's regulatory perimeter still reflects the realities of a rapidly evolving cryptoasset market.
- **What to do next:** Market participants should consider reviewing the consultation and submitting responses via the online questionnaire before the deadline to participate in shaping the next phase of EU crypto regulation.

Introduction

A new European Commission (the Commission) consultation on the review of the Markets in Crypto-Assets (MiCA) Regulation gives market participants until 31 August 2026 to submit comments. The consultation, published on 20 May 2026, is directed at financial institutions, cryptoasset service providers (CASPs), national competent authorities, central banks and ministries of finance.

It explores whether MiCA's regulatory perimeter still reflects the realities of a rapidly evolving cryptoasset market. Key challenges identified include:

- The increasingly blurred boundary between the definition of cryptoassets and traditional financial instruments.
- The absence of an equivalence framework for third-country stablecoin issuers that limits European Union access to global liquidity.
- Restrictive stablecoin rules that may be hampering competitiveness.
- The continued lack of regulatory coverage for fast-growing activities such as DeFi, staking, lending, prediction markets and tokenized deposits.

By gathering targeted industry feedback on these issues, the Commission aims to determine whether MiCA requires recalibration to maintain investor protection and financial stability while keeping the EU competitive as a jurisdiction for cryptoasset innovation.

Market participants may want to consider reviewing the consultation and submitting responses via the online questionnaire before the 31 August 2026 deadline. Engagement in the consultation process will enable stakeholders to participate in shaping the next phase of EU crypto regulation.

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Background

MiCA, which became fully applicable on 30 December 2024, was designed to provide legal certainty through a harmonized EU framework defining cryptoasset categories and establishing requirements for issuers and service providers.

However, the cryptoasset market has evolved significantly since MiCA was designed. Traditional financial services firms are rapidly moving into the crypto and tokenized asset space, and jurisdictions — most notably the United States with the enactment of the GENIUS Act and the United Kingdom under its evolving crypto regulatory framework — have developed their own comprehensive stablecoin and cryptoasset regimes.

Against this backdrop, the Commission is seeking to assess whether MiCA remains fit for purpose.

The consultation also forms part of the Commission's broader simplification agenda to support the EU's competitiveness, expressly inviting feedback on whether administrative or regulatory burdens can be simplified, reduced or dispensed with.

Defining the Boundaries: Cryptoassets Versus Traditional Financial Instruments

A recurring challenge since MiCA's adoption has been the distinction between cryptoassets regulated under MiCA and tokenized financial instruments governed by, *inter alia*, the Markets in Financial Instruments Directive II (MiFID II) and the Markets in Financial Instruments Regulation (MiFIR).

Currently, cryptoassets that qualify as financial instruments remain outside MiCA's scope and are subject to securities issuance and trading regulation. This technology-neutral approach, in which financial instruments are treated not according to the underlying technology but according to their economic substance, is a fundamental principle of EU financial regulation.

In practice, however, it can be difficult to draw a clear line between these two areas, for example when distinguishing between certain securities-backed cryptoassets and traditional financial instruments (such as "wrapped" cryptoassets structured as futures contracts or exchange-traded debt instruments).

The Commission is now asking the fundamental question whether all assets recorded and traded on the basis of distributed ledger technology (DLT) generally should fall under MiCA. Furthermore, the consultation questions whether the common standardized classification test has adequately reduced uncertainties and which "borderline cases" remain the most difficult to classify.

A particularly prominent example of such borderline cases concerns prediction markets based on DLT and facilitated through smart contracts. Prediction markets are markets where parties essentially take a bet on a future development in almost any area, often times far removed from financial assets or services — be it election outcomes, weather events or sporting results.

The question arises whether such markets, given that they operate on distributed ledger infrastructure, should be governed by MiCA as cryptoasset services, or whether the derivative-like nature of the positions taken by participants brings them within the scope of MiFID II as financial instruments.

A similar classification difficulty arises in relation to perpetual futures on cryptoassets and related services , which share characteristics with traditional derivatives but are native to DLT-based trading venues. In this context, the further question arises as to whether perpetual futures should be subject to financial regulation at all, given their novel structure and the absence of a fixed expiry date that traditionally characterizes regulated derivatives.

Stablecoins Under the Spotlight

The most important aspect of the consultation concerns the legal framework for asset-referenced tokens (ARTs) and e-money tokens (EMTs) under MiCA.

Multi-Issuance Structures

The permissibility of multi-issuance structures under MiCA has been a subject of intense debate among market participants, national competent authorities, industry associations and EU institutions.

Multi-issuance structures involve stablecoins that are issued by multiple entities in different jurisdictions and designed to be fungible, meaning holders in different jurisdictions can treat them as identical regardless of which entity issued them. Under such arrangements, each issuing entity holds reserves backing its tokens, but where one entity faces a redemption request exceeding its available reserves, the arrangement provides for a rebalancing mechanism across co-issuers.

Notably, the Commission has for the first time in the consultation acknowledged that multi-issuance structures are currently not prohibited by MiCA for all stablecoins. However, the Commission is exploring whether this approach should continue and whether additional safeguards are needed to protect EU customers, particularly in stress scenarios where cross-border migration of tokens could lead to sudden increases in redemption pressure on EU issuers.

Potential measures under consideration include:

- Strengthening redemption rights for holders of stablecoins genuinely circulating in the EU.
- Restricting direct redemption rights to clients of EU-authorized CASPs.
- Differentiating redemption rights between retail and business customers.

Euro-Backed Stablecoins

Under MiCA, all EMTs pegged to or denominated in an EU currency are automatically deemed offered in the EU and, therefore, are fully subject to MiCA issuer requirements, regardless of where the issuer is based. This regime was originally intended to prevent non-EU issuers from offering euro-denominated stablecoins to EU consumers outside the MiCA framework.

However, euro-denominated stablecoins currently represent only a fraction of total global stablecoin volume. The Commission is now questioning whether this strict approach carries the unintended consequence of suppressing the euro's potential as a global reserve currency for fiat-backed stablecoins and whether it discourages the international role of the euro.

Interest Prohibition

MiCA currently prohibits the granting of interest or any interest-equivalent remuneration on stablecoins by either the issuer, offeror or the CASP. This prohibition applies to both ARTs and EMTs. The Commission is asking whether this prohibition should be modified and, if so, under what conditions remuneration could be permitted.

Prudential Regime and Reserve Requirements

The Commission notes that no ARTs have been licensed in the EU to date and is asking whether this reflects low market interest or the regulatory burden associated with ART issuance. For EMTs, the consultation explores whether credit institutions issuing EMTs should in future be required to maintain segregated reserves.

Equivalence Regime

Perhaps the most forward-looking proposal in the stablecoin section is the Commission's inquiry into whether an equivalence regime for third-country stablecoin issuers should be introduced.

Currently, there is no mechanism under MiCA for recognizing or deferring to third-country regulatory frameworks. This means that any issuer wishing to offer stablecoins to EU clients must establish an EU presence and comply with MiCA in full. Given that major jurisdictions including the US and UK now have their own comprehensive stablecoin frameworks, the Commission is questioning whether this approach remains proportionate.

From a practical standpoint, an equivalence regime could be transformative: Multi-issuance structures could rely on mutual recognition across jurisdictions, and stablecoins issued under comparable third-country frameworks could potentially become eligible for listing on EU exchanges. This would give EU users access to globally circulating stablecoins currently unavailable on regulated EU platforms.

Cryptoasset Service Providers

The consultation addresses the regulatory framework for CASPs, noting that approximately 227 CASPs are currently listed in the ESMA register across 25 countries of the European Economic Area.

Key questions include whether:

- The current list of regulated cryptoasset services is adequate.
- Lending and borrowing of cryptoassets should be added as a regulated activity, and if so, what the main elements of such a framework should include.

The Commission further asks whether MiCA's prudential regime for CASPs, based on minimum capital and fixed overheads, appropriately captures the risks of cryptoasset services or whether alignment with the framework applicable to investment firms would be warranted.

The consultation further flags the interplay between the MiCA rules governing transfer services in relation to EMTs and the rules under the payment services framework which apply to the provision of payment services.

Payment Services Directive 3 (PSD 3) and the Payment Services Regulation will:

- Clarify when cryptoasset services qualify as payment services.
- Introduce targeted exclusions for certain EMT-related transactions.
- Specify the authorization process in cases where CASPs are required to obtain a PSD 3 authorization.

The Commission is seeking comments on whether these proposed changes provide sufficient clarity or whether there are any other issues that need to be addressed.

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In addition, the consultation is also examining the possibility of introducing formal CASP reporting requirements regarding:

- Direct holdings of cryptoassets.
- Large exposures to crypto derivatives.
- The volume of leveraged contracts.
- Counterparty risk.

Decentralized Finance

MiCA currently excludes from its scope cryptoasset services "provided in a fully decentralised manner without any intermediary." The Commission does not suggest changing this approach but asks about the factors that should be considered when assessing the degree of decentralization.

Beyond that, the Commission is exploring whether CASPs that provide clients with access to decentralized finance (DeFi) platforms should be subject to enhanced obligations, such as:

- Due diligence over the protocols they connect clients with.
- Liability for DeFi-related incidents.
- A requirement to only connect clients with certified DeFi platforms.

The consultation further asks whether certification schemes should be introduced for DeFi protocols and smart contracts, and if so, whether these should be issued by public or private sector entities.

Staking

Staking is the process by which cryptoassets are locked or immobilized in order to participate in the validation of transactions on proof-of-stake or analogous blockchain consensus networks. In return for committing these assets, the staker is granted validator privileges, which carry the entitlement to earn block rewards.

In practice, staking service arrangements frequently involve the staking service provider taking custody of the relevant cryptoassets — or of the private keys required to access them — on behalf of the asset holder.

Under the current framework, such custodial staking is treated as an ancillary service to custody services fully covered under MiCA. Pure staking arrangements that do not involve the transfer of custody, however, remain unregulated.

The Commission is now asking whether this ancillary treatment remains adequate or whether staking services should be subject to stand-alone regulatory requirements tailored to their specific risk profile.

Legal Treatment of Tokens

In addition, the consultation addresses fundamental private law questions regarding the legal certainty of token ownership, transfer, custody and treatment in insolvency. The Commission notes that many EU member states do not explicitly recognize on-chain assets or clearly regulate whether holding a token constitutes ownership.

The consultation examines possible approaches to harmonization at the EU level and presents several models for consideration.

Conclusion

The Commission's consultation on the MiCA review marks a significant step toward reassessing the EU's cryptoasset framework in light of rapid market developments and an increasingly competitive global landscape.

Market participants should consider responding to the consultation to explore whether some of the more onerous provisions in MiCA (such as the interest prohibition) can be softened, as well as pushing for development of the equivalence regime to better reflect the international nature of stablecoins.

Research assistant **Laura Wagner** contributed to this article.