

MAKING MiCA A SUCCESS FOR EUROPE

INTRODUCTION

Blockchain for Europe (BC4EU) welcomes the EU proposal for a Regulation on Markets in Crypto-Assets (MiCA) as we consider it as a unique opportunity to boost Europe's competitiveness. We believe that a well-designed MiCA framework will enable the EU's businesses and citizens to benefit fully from a token economy. It could also support complementary solutions to an ECB-issued digital euro, acknowledge and promote innovation

stemming from decentralised finance (DeFi) and create legal certainty for issuers and crypto-asset service providers (CASPs). We agree that regulating crypto-assets used similarly to financial instruments is important and should be the core of MiCA. Hence it is very important for the development of the Token Economy in Europe that the scope of MiCA is clearly focused on the financial markets applications and not on the rest of the Token Economy.

TAXONOMY

BC4EU is of the view that MiCA should make a distinction between crypto-assets that are financial in nature versus those that are not, and consequently the latter should be exempt from its scope. This should be achieved through a specific exemption of crypto-assets that are not admitted to trading within the EU and that represent rights to physical items (unless they are commodity derivatives), immovable property, personal services, reward points and air miles, intellectual property rights and personal claims towards an insurance company.

Potential Consequences

We believe that the current scope of MiCA is too broad and could result in reduced legal certainty and an increased compliance burden and cost for issuers and CASPs and harm European industry and innovation. The current provisions of MiCA signify that tokenised assets as e.g. air miles, loyalty points, art or real estate will be treated in the same way as financial instruments. In consequence, Europe risks missing out on a token economy and letting third countries set the pace and attract European-grown businesses.

DECENTRALISED FINANCE

BC4EU believes that MiCA must acknowledge the specifics of Blockchain technology and ensure that advances in DeFi are not stifled due to regulatory requirements that are not practical, and unworkable in practice for DeFi projects. This includes making sure that issuers of DeFi tokens that do not seek admission to trading are exempt from MiCA. At the same time, CASPs should not be discouraged from admitting such assets to trading by taking on disproportionate levels of responsibility and unclear liability. MiCA should also provide guidance on how decentralised projects might use alternative governance structures such as the establishment of foundations to represent projects.

Potential Consequences

A regulatory approach that is not technology neutral and future proof means that Europe is risking to lose the DeFi race to third countries, and missing out on the opportunity to introduce innovation-friendly governance, compliance, oversight and auditing measures into the architecture of such platforms.

E-MONEY TOKENS

BC4EU believes that MiCA should not penalise e-money token providers that are already compliant with the existing legislation, for using DLT/Blockchain-technology. MiCA should rather exempt e-money tokens that are not seeking an admission to trading.

Potential Consequences

Currently, there is a risk of disabling industry-led "stablecoin" solutions without an existing alternative such as an ECB-issued Digital Euro. MiCA must encourage such complementary solutions until a Central Bank Digital Currency becomes available. If MiCA does not facilitate tokenised payments solutions for the Internet of Things, Europe's industry will fall behind globally.

CAPITAL RAISING REQUIREMENTS

BC4EU considers that the requirements on capital raising under MiCA and the Prospectus Regulation need to be aligned. Projects using Blockchain technology must be able to raise capital of up to €8m within 12 months as opposed to just €1m.

Potential Consequences

The current approach under MiCA puts projects opting for DLT/blockchain technology at a disadvantage compared to projects based on other technologies, ultimately placing European innovation and growth at risk.

WHAT'S AT STAKE

MiCA is a unique opportunity for Europe to lead in the development of new technologies such as Blockchain. At the same time, if the right balance is not reached, the current proposal risks jeopardising the EU's strategic autonomy, turning innovation away to other jurisdictions such as China

CRYPTO-ASSET SERVICE PROVIDERS

BC4EU is of the view that MiCA should only apply to crypto-asset services that relate to crypto-assets which are admitted to trading. Furthermore, in line with the 'same-risks, same-rules' principle, it is important that the obligations for CASPs that are consumer-facing are not the same as the obligations towards businesses and financial institutions.

Potential Consequences

A differentiated approach to the above risks undermining Europe's strategic autonomy by discouraging the development and growth of European-grown solutions and actors due to costly and burdensome requirements of MiCA. Taking a disproportionately strict approach to regulating CASPs may create regulatory arbitrage opportunities, cause a race to the bottom outside the EU and lead to Europe missing out on the next wave of innovation.

or the US, and stifling innovation. Innovation across almost the entire European value chain could be discouraged risking Europe losing out on the web 3.0 innovation, similarly to what has occurred previously during the internet boom, which would ultimately stifle Europe's competitiveness globally.