

UK and EU cryptoasset regulatory landscapes take shape

The EU's DORA and MiCA are now fully in operation, while the UK has provided further clarity on its proposed regulatory framework for cryptoassets. **Steven Lightstone** outlines new and coming developments.

The cryptoasset regulatory frameworks in the United Kingdom and European Union are continuing to take shape, with further clarity having been provided towards the end of 2024 on the proposed new UK regulatory framework for cryptoassets. This is now intended to take effect in 2026, while the EU Digital Operational Resilience Act (DORA) and remaining provisions of the EU Markets in Cryptoassets Regulation (MiCA) have just taken effect. We discuss below the latest proposals set out by the Government and Financial Conduct Authority in the UK, the implications of the new EU cryptoasset regulatory requirements, along with expected developments in the course of 2025 and beyond.



Updates on proposed UK regime

The Government published a speech in November 2024 on its intended updates to the UK cryptoasset regulatory regime, and the FCA put out a blog, press release and roadmap later that month on its plans for regulating cryptoassets. In addition, the FCA published a discussion paper in December 2024 on proposed new admission and disclosure requirements for cryptoassets, along with a market abuse regime. These publications bring welcome clarity and will enable the industry to start planning ahead, although a lot of the detail will be in the forthcoming draft legislation and FCA rules.

Cryptoassets are currently subject to existing rules and regulation, with the FCA classifying cryptoassets as (i) security tokens, which are regulated and akin to specified investments like shares and debt instruments, (ii) e-money tokens, which are regulated and meet the definition of electronic money, or (iii) unregulated tokens, which are further broken down into utility tokens and exchange tokens (and which include cryptocurrencies such as Bitcoin). Unregulated tokens currently fall outside the regulatory perimeter, meaning that activities relating to these do not require FCA authorisation. However, the previous government set out proposals to bring cryptoasset activities not currently inside the UK perimeter within scope of the regulatory framework, including admitting cryptoassets to trading venues, making public offers of cryptoassets, exchange activities, lending, borrowing and leverage activities, custody activities, in addition to investment and risk management activities.

The Labour Government has confirmed its intention to implement the former government's regulatory proposals for cryptoassets "in full", but without taking the planned phased approach (which had involved the regulation of fiat-backed stablecoins used for payments in the first phase and the regulation of broader cryptoasset activities in the second phase). It is now intended for the regulation of stablecoins to proceed concurrently with the rest of the cryptoasset regulatory regime. The issuance of fiat-backed stablecoins is still expected to fall within a new regulated activity, but the Government does not have in mind to bring stablecoins into UK payments regulation at this time as it would place disproportionate regulatory burdens on certain stablecoin activities. HM Treasury has also just provided legal certainty on cryptoasset staking services not constituting a collective investment scheme with the introduction on 9 January 2025 of legislation clarifying (with effect from 31 January 2025) that arrangements for qualifying cryptoasset staking do not amount to a collective investment scheme.

Crypto Roadmap 2025/26

The FCA's roadmap contemplates that the new cryptoasset regulatory regime will start to apply in 2026, although it is likely that it will not be in place until the second half of that year as the Authority only intends to publish its final rules and policy statements in 2026.

In the coming months the regulator plans to publish a discussion paper covering trading platform rules (including location, access, matching and transparency requirements), intermediation rules (including order handling and execution requirements), lending rules (including ownership, access and disclosures), staking (including ownership and disclosures) and prudential considerations for cryptoasset exposures. The FCA is also due to publish a consultation paper on stablecoins (including backing assets and redemption), custody (including record-keeping, reconciliations, segregation of assets and use of third parties), along with the introduction of a new prudential sourcebook (including capital, liquidity and risk management).

In the third quarter of this year, the FCA is expected to publish a consultation paper on conduct and firm standards for all regulated activities, covering systems and controls (including operational resilience and financial crime), the Consumer Duty, complaints, conduct of business rules, in addition to governance (ie, the Senior Managers and Certification Regime). Further to the FCA's

December 2024 discussion paper on its approach to cryptoasset admissions, disclosures, plus the cryptoasset market abuse regime (for which the discussion period ends on 14 March 2025), the regulator plans also to consult via a consultation paper in the third quarter of this year on any of the proposals outlined in that discussion paper if it proposes to adopt them as part of its final rules. Finally, the FCA intends to publish a consultation paper at the end of 2025 (or the beginning of 2026) on trading platforms, intermediation, lending and staking, along with prudential requirements.

New EU regime takes effect

MiCA entered into force on 29 June 2023, with its provisions related to issuers of asset-referenced tokens and electronic money tokens having applied since 30 June 2024. The remaining provisions, including those for cryptoasset service providers and issuers of cryptoassets other than asset-referenced tokens and electronic money tokens, have applied since 30 December 2024.

MiCA was proposed as an element of the digital finance package that included DORA, which contains operational resilience requirements that have also applied to EU cryptoasset service providers since taking effect on 17 January 2025. MiCA has introduced a new regulatory framework for cryptoassets that are not covered by other existing EU rules and was driven in part by a concern that while the cryptoasset market does not currently pose a threat to financial stability, this may change with the emergence of global stablecoins.

Various cryptoassets are subject to different requirements and MiCA distinguishes between ‘asset-referenced tokens’ (ie, cryptoassets purporting to maintain a stable value by referencing the value of several fiat currencies, one or several commodities or cryptoassets, or a combination of these), ‘electronic money tokens’ (ie, cryptoassets used as a means of exchange and that purport to maintain a stable value by referencing the value of a single fiat currency), and cryptoassets that are neither asset-referenced tokens nor electronic money tokens.

Non-fungible tokens not falling within existing cryptoasset categories are excluded from the scope of MiCA, but the European Commission is required to assess this and, if necessary, adopt a legislative proposal for a non-fungible token regime.

Requirements for issuers of cryptoassets

MiCA includes transparency and disclosure requirements for the issuance and admission to trading of cryptoassets, such as the need for a white paper before cryptoassets are offered to the public in the EU or admitted to trading on a platform. For an issuer of cryptoassets other than asset-referenced tokens and electronic money tokens, the white paper will have to be notified to the relevant regulator but will not have to be approved by the regulator. For an issuer of asset-referenced tokens and electronic money tokens, an offer to the public in the EU or admission to trading on a platform for those tokens is only permitted if the issuer is authorised in the European Union and the white paper has been approved by the relevant regulator.

Ongoing obligations applying to issuers under MiCA include those relating to establishing a complaint-handling procedure, conflicts of interest, notifying the regulator of changes to their management body, governance arrangements, own funds, in addition to requirements for the custody of reserve assets. Issuers offering asset-referenced tokens classed as ‘significant’ are subject to more onerous conditions.

Requirements for cryptoasset service providers

Cryptoasset services that are now regulated under MiCA (since 30 December 2024) include the custody and administration of cryptoassets on behalf of clients, the operation of a trading platform for cryptoassets, the exchange of cryptoassets for funds or other cryptoassets, the execution, or reception and transmission, of orders for cryptoassets on behalf of clients, and the provision of advice or portfolio management in relation to cryptoassets.

Providers of these services generally need to be authorised under MiCA and are subject to operational, organisational and governance requirements, rules on the safekeeping of clients’ cryptoassets and funds, the obligation to establish a complaint-handling procedure, rules on conflicts of interest, rules on outsourcing and measures to prevent market abuse.

Next steps for UK and EU firms

Against the backdrop of the rapidly developing UK and EU digital landscapes as well as transforming innovative financial instruments and technologies, the UK and EU cryptoasset regulatory frameworks are continuing to evolve.

Cryptoasset firms operating in the UK must start planning in view of the recent updates on next steps for the proposed new cryptoasset regulatory regime and keep abreast of the wave of consultations due in the coming months. Firms should be considering whether their existing activities fall within the scope of the proposed regime and, as the FCA papers and draft legislation are published, engaging with the detail of the proposals along with thinking about applications to their business.

In the EU, many cryptoasset firms are just into the new MiCA and DORA regimes and by this point should have reached a status that complies with the requirements. Cryptoasset service providers and issuers of cryptoassets must be clear on the activities within scope of MiCA and ensure that they have a compliance framework to meet the applicable requirements.

Steven Lightstone (steven.lightstone@morganlewis.com) is a partner in London and co-leader of law firm Morgan Lewis' global fintech industry team. Copyright 2025, Morgan, Lewis & Bockius LLP. All Rights Reserved. This article is provided as a general informational service and it should not be construed as imparting legal advice on any specific matter.

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