# Crypto perspectives and regulatory outlook

## 1. The need for regulation of the crypto sector

An industry representative stated that regulatory clarity will drive investment, growth, consumer protection and healthy competition in the crypto market. EU's leadership with the MiCA (Markets in Crypto-Assets) regulation is a significant step toward this clarity at the European and global level. It is particularly welcome for centralised crypto exchanges.

A second industry representative also expressed support for regulating the crypto sector and endorsed the approach taken with MiCA. Compliance with regulation must be embedded in market players' approaches. MiCA is probably the most comprehensive and thoughtful framework available globally at present and has served as a blueprint for much of the work of international standard setters. While crypto regulation in the US remains uncertain, MiCA provides regulatory clarity that will drive investor trust and is likely to further expand the European crypto market and economy.

An official explained that Polish consumers are open to crypto and new technologies more generally, with up to 3 million citizens investing in cryptoassets. It is therefore crucial to regulate the crypto market. The decision to regulate stablecoins is also relevant, due to their role as a natural connection between crypto markets, traditional financial institutions and retail customers. However, there is concern about the rise of fraudulent activities, with data showing that 20% of Polish crypto investors have fallen victim to some form of fraud. It is important to achieve the implementation of the MiCA framework by the end of 2024 to protect consumers and legitimate market participants whose reputation may be undermined by fraudulent companies.

An industry representative suggested that the implementation of MiCA will help 'clean up' the crypto ecosystem, with some member states expected to revoke the licenses of certain cryptoasset service providers (CASPs). This will help to promote better practices and foster a more level playing field between the crypto sector and the wider financial industry. Although full alignment of requirements between the crypto space and traditional finance has not yet been reached, progress is being made.

## 2. MiCA implementation

### 2.1 Progress on the implementation of MiCA

A regulator emphasised that the implementation of MiCA is the primary focus for the regulatory community in the crypto space in the short term and good progress is being made. Regulators and market participants are still on a learning curve given the rapidly changing nature of the crypto sector.

ESMA has been making steady progress in delivering the required regulatory mandates through three consultation rounds. The first package of guidelines, which was completed in March 2024, focused on the authorisation of CASPs in a context in which some CASPs are already filing for authorisation with certain national competent authorities (NCAs). The second package finalised in July covered record keeping, transparency, standardised information, including white papers. The third package, now being finalized, tackles key issues such as reverse solicitation and the scope of MiCA, focusing on the distinction between cryptoassets and MiFID financial instruments to ensure legal clarity in their classification. A case-by-case assessment is needed given the evolving definition of financial instruments under MiFID.

### 2.2 Convergence challenges across member states and between crypto and traditional financial market rules

A regulator noted that the implementation of MiCA remains uneven across Europe, with about half of the member states yet to designate the NCAs responsible for its rollout, while some NCAs have already begun handling authorization filings. Further clarity on this issue is expected by October. For example, in Italy, where the final legislation was passed in August, CONSOB was not initially responsible for cryptoassets. The transfer of responsibilities from one authority to another has led to delays and required communication with the market.

ESMA is working to ensure a coordinated and convergent implementation of MiCA in order to avoid inconsistencies and ensure a level playing field across member states. The first objective is to establish a unified approach to authorisations through supervisory briefings and collaborative discussions among supervisors.

ESMA has been providing clarifications to the NCAs and the market about the scope of MiCA and possible circumvention risks. The opinion published in July regarding certain business models also offered guidance on what should be authorised at the European level and which activities may potentially be conducted outside the EU by third-country broker dealers.

An industry representative welcomed the efforts being made to implement MiCA in a consistent way with convergent supervision, which is essential to ensure a level playing field across the EU. The different grandfathering periods granted for CASPs already authorised under national law[1] could however lead to confusion in the short term, particularly around whether firms are acting under reverse solicitation rules or are fully licensed.

A second industry representative was also concerned that the transition of registrations over the next 12 to 18 months could lead to divergence in the timing of application of MiCA across member states. This may be challenging, particularly in a competitive market where consolidation is naturally taking place due to market forces. When the transitioning provisions of MiCA end, platforms will need to transition existing digital asset portfolios into the new framework in a way that preserves market integrity and avoids disruption. Large platforms that service more than 250 different assets will find this transition challenging.

A third industry representative commented that, in addition to convergence among European countries in the MiCA implementation, there is a need for a level playing field between traditional financial activities and blockchain-based activities, with an alignment of regulations. This is a shared concern between the industry and regulators. Blockchain offers advantages such as transparency, immutability and instantaneity, but implementing traditional financial processes in the blockchain environment is challenging. For instance, the travel rule, which must be implemented by the end of 2024, is not natively supported by most blockchain solutions, requiring external mechanisms to ensure compliance, which adds complexity. At present, two parallel visions coexist: traditional finance, with its established rules and compliance structures, and the emerging, less regulated blockchain ecosystem. To verify the origin and destination of transactions and track payments, traditional finance rules need to be adapted for the blockchain environment.

An official highlighted that MiCA's status as a regulation, rather than a directive, will promote greater consistency in its application across member states. The official agreed however that the implementation of CASP requirements presents specific challenges, particularly due to potential differences in transitional periods between member states, which could result in temporary variations in rules across the EU.

### 2.3 Pending issues and challenges related to the MiCA implementation

An official explained that Poland is currently implementing the MiCA provisions, but significant work remains due to the complexity of the regulatory framework. While some provisions took effect two months ago, the full impact is difficult to assess at this stage. A recent public consultation on the implementation of MiCA has generated strong interest from market participants in Poland, providing regulators with valuable insights.

An industry representative noted that MiCA has already gone live for stablecoins. Stablecoins, often referred to as the 'oil of crypto markets', could scale very fast due to their critical role in the execution of most crypto transactions. They have huge potential for cross-border payments, with the ability to send real US dollars instantaneously and globally at almost no cost using crypto technology, which cannot be done within the traditional financial system. They can also play an important role in supporting tokenisation, as an on-chain settlement asset. However, MiCA's current approach hinders the development of euro denominated stablecoins. Although the EURC stablecoin was recently approved in France, its market capitalisation remains small compared to US stablecoins. Obstacles to further growth include high capital requirements despite limited risk, the ban on giving interest, requirements on the holding of bank accounts that are challenging for fintechs and complex rules for managing reserves. These issues limit the ability of stablecoins to compete with traditional financial instruments. A review of MiCA stablecoin requirements may be required as rules are progressively established in other jurisdictions.

Another issue concerns EU-regulated CASPs that need to have access to global liquidity. Only 10% to 12% of global crypto trading volume happens in Europe. There is a need to grow EU liquidity and also ensure access of CASPs to global markets in order to provide consumers with best execution and positive outcomes.

The industry representative also noted that the overlap between MiCA and the Payment Services Directive (PSD) results in a number of technical issues that need to be addressed in the coming six months, such as whether firms transferring e-money tokens (EMTs), which are fiat-backed stablecoins regulated under MiCA, would also need a PSD license for payment transactions. EMTs should be exempted from PSD to avoid duplicative regulations. Potential conflicts between the two frameworks include the PSD's requirement for transaction reversibility, which is incompatible with blockchain's irreversible nature.

## 3. International regulatory developments

### 3.1 International divergence

An official emphasized the current international divergence of regulatory approaches to crypto, particularly with respect to centrally issued stablecoins denominated in fiat currency and backed by traditional assets. These stablecoins, traditionally used as digital settlement assets, are now also being used for storage of value and payment purposes as payment service providers are exploring their integration into their networks. This could result in regulatory arbitrage and

1. Crypto-asset service providers that provided their services in accordance with applicable national law before 30 December 2024 may continue to do so until 1 July 2026. However, member states may derogate from that rule (by not applying this transitional regime at all or reducing its duration) if they consider that their national regulatory framework is less strict than MiCA and inform the European Commission and ESMA until 30 June 2024 about their choice.

financial stability risks if certain business models achieve rapid scalability and wider retail payment use. Existing international standards, such as the recommendations from the Financial Stability Board (FSB) on global stablecoin arrangements, provide guidance. However, only 10% of jurisdictions have comprehensive regulatory frameworks for stablecoins, aside from the widely adopted anti-money laundering (AML) and counter-terrorism financing (CFT) measures based on the Financial Action Task Force (FATF) recommendations. Financial stability and consumer protection risks remain unregulated in most jurisdictions.

A paper published by the Financial Stability Institute (FSI) in April 2024[2] compares established and proposed regulatory frameworks for stablecoin issuers in 11 jurisdictions. Emerging national regulatory strategies address common issues, such as the nature of issuers and reserve assets, custody and redemption requirements, governance, and risk management. Issuers are typically required to maintain reserves equivalent to the value of their circulating stablecoins, ensure segregation and custody of assets and establish clear redemption procedures. Regulations also contain prudential, governance, risk management and AML/CFT requirements, as well as disclosure obligations. Most frameworks follow two authorisation regimes for issuing stablecoins: the regime for banks and certain non-bank financial institutions under existing regimes and/or a newly established crypto-specific licence.

Inconsistencies between national regulatory regimes however exist that can prevent effective coordination across jurisdictions. For instance, the terminology used to classify stablecoins varies significantly across regulations. Notable differences also exist in restrictions on reserve assets, the treatment of redemption fees and the nature of stablecoin holders' claims. For example, an e-money stablecoin in Europe differs significantly from a fiat-backed US dollar stablecoin in New York state or other fiat-referenced stablecoins in the UK or Dubai. In most countries, users hold a claim against reserve assets, however in some jurisdictions, including Europe, the claim is against the issuer. Further regulatory convergence will be essential as the use of stablecoins grows globally and this will also facilitate enhanced supervisory cooperation. The FSB is establishing global standards for stablecoins. Data on stablecoin arrangements is also being gathered and will support the work on regulatory convergence.

An industry representative commented that the inherently global nature of crypto markets, with continuous trading and asset fungibility, makes consistent regulation across jurisdictions critical. The gaps that persist between major G10 markets in terms of timing of crypto market regulation may create problems for global market operators. The aim is to move towards responsible cross-border market access and regulatory convergence, for which global standard setters have a critical role to play.

### 3.2 Progress of the legislative process in the US

An industry representative stressed that in the near term, the primary focus in the policy area should remain on achieving regulatory clarity in key global jurisdictions. The current lack of regulatory clarity in the US in particular, hinders market growth, and leads to costly legal battles diverting resources. Several crypto companies are currently engaged in litigation with the US Securities and Exchange Commission (SEC). Early court rulings have aligned more closely with the industry's perspective of the nature of cryptoassets traded on secondary markets, reflecting a similar approach to MiCA.

Despite significant advancements and strong bipartisan support in both the House and Senate, final legislation has not yet been passed. The leadership shown by the EU with MiCA will likely encourage further legislative developments in the US. The upcoming elections have slowed down the political process, but a potential legislative window could open towards the end of 2024. Cryptocurrency has unexpectedly become a key issue in the US presidential election in recent months, complicating the political environment for crypto but also acting as a catalyst for progress. The current US administration has reset its approach towards the crypto industry and there are positive signs that regulation is moving towards becoming a nonpartisan issue. Ensuring consumer protection and risk management should indeed transcend party politics.

## 4. Future market developments

### 4.1 Prospects of the crypto and digital asset market

A regulator highlighted three key elements to consider in future work on crypto regulation. First, the continued strong interest in crypto from consumers, particularly younger generations, must be taken into account when shaping future regulation. Second, regulation could provide legitimacy for the sector, potentially accelerating the strong growth that has already occurred in an unregulated environment. Third, the growing interconnection and hybridisation between traditional finance and the crypto sector, could complicate the regulation and oversight of the sector.

An industry representative observed that digital assets have important implications for the EU's competitiveness. Digital assets are a next-generation, transformative technology with the potential to significantly impact financial services, payments and even the evolution of the internet with a progressive transition to Web 3.0. There are also growing synergies between blockchain and AI. While AI scales content, blockchain will scale trust. MiCA provides Europe with a unique opportunity to address some of the competitiveness gaps identified in the Draghi report by driving the adoption of digital assets within a globally unmatched regulatory framework.

2. FSI Insights No 57 09 April 2024

The debate on open versus closed systems will also be essential to determining the future of crypto regulation. A Bank for International Settlements (BIS) paper published in April 2024, Finternet: the financial system for the future, foresees a financial system based on technologies such as tokenisation and unified ledgers. This is very relevant, but the envisioned system is presented as a closed centralised system. Although such a system has merits, it is also important to allow private sector innovation on public permissionless blockchains, as closed and open systems are likely to converge and complement each other in the future. Public blockchains could, for example, help achieve some G20 goals for 2027, such as improving global financial inclusion and increasing the speed of cross-border transfers.

### 4.2 The implications of CBDC for crypto

An industry representative highlighted the need for a widely adopted euro-denominated digital currency to support settlement processes. Stablecoins offer a partial solution but a wholesale euro central bank digital currency (CBDC) could enhance the efficiency of blockchain-based transactions by offering a digital currency leg for settling them and could streamline operations across traditional and digital financial systems, that are likely to coexist.

Another industry representative commented that CBDCs are not expected to have significant near-term implications for the crypto market. As certain jurisdictions make progress with CBDC initiatives, other policymakers and central banks will likely be prompted to engage more deeply in the debate.

### 4.3 Institutionalisation of the crypto market

An industry representative emphasised that the traditional financial industry is moving fast in the area of blockchain and digital assets, offering clients the opportunity to experiment with blockchain and providing digital asset safekeeping services. At present, many clients lack knowledge about the potential uses of blockchain, so traditional financial players are providing them with opportunities and tools for experimentation. Institutional clients such as asset managers, pension funds and insurance companies are increasingly recognising blockchain's potential. This growing interest can be attributed directly to MiCA's positive impact on the market.

## 5. Pending regulatory questions

### 5.1 Addressing global stablecoin risks

An official noted that a common dilemma in international regulatory debates is determining the right moment to intervene in response to emerging risks. In the crypto world there is a need to differentiate between various use cases and assets. Future international regulatory focus should prioritise stablecoins used for payments or as stores of value in cross-border contexts, as their use is rapidly increasing, particularly in emerging markets where stablecoins offer easy access to US dollars. This growing use, which is increasing the cross-border dimension of stablecoin business, calls for prompt regulatory action, which is why the FSB is working on standards for global stablecoins.

The market capitalisation of stablecoins is currently around $160 billion, which is relatively small compared to the broader financial system, but the pace of growth is remarkable. For example, PayPal's USD stablecoin reached a $1 billion market capitalisation in less than a year, growing much faster than other major stablecoins like USDC or USDT. With PayPal's 430 million global users, the potential for this stablecoin to scale rapidly is significant, further reinforcing the need for swift regulatory action.

MiCA already includes a chapter on significant stablecoins, with enhanced requirements for systemic instruments, but these requirements will likely need to be strengthened in the future. Additional controls, particularly on reserve assets, risk management, and governance, seem necessary to mitigate risks. Robust supervisory cooperation at the international level is also essential to ensure regulatory convergence. However, regulation cannot be the only policy response to stablecoin risks. The public sector must also invest in infrastructure to enable private stablecoin transactions to be settled in CBDCs, creating a safer environment, while fully leveraging the value that stablecoins can bring to the financial system.

### 5.2 Potential review of MiCA

A regulator commented that, while MiCA has been praised for its comprehensive scope, some areas, such as decentralized finance (DeFi), staking and non-fungible tokens (NFTs), remain outside its scope and may require further regulatory attention. MiCA was drafted before recent market events, such as the collapse of FTX, and might have been framed differently had these incidents occurred earlier. The ongoing implementation process has also revealed areas that may require adjustment in terms of proportionality and ensuring a level playing field, such as reporting standards, market supervision and access to on-chain and off-chain data. The European Commission is expected to closely monitor developments, particularly the emergence of DeFi.

An official acknowledged that there will likely be a need for future revisions and adjustments of MiCA, as is common with major financial regulations. However, no significant blind spots have yet appeared in the Polish market, notably in terms of consumer protection and countering market abuse. The scope of MiCA is appropriate for tackling the current risks associated with the crypto market. Monitoring of MiCA's implementation by public authorities will guide future revisions if needed.

The Chair concluded the panel stating that he was encouraged by the comments made regarding Europe's leading position in the global crypto landscape, which is helping to drive change in other parts of the world, including the US. Implementation is still underway, but the MiCA framework has already provided companies with the regulatory clarity needed to develop their businesses, even as significant changes driven by digital applications continue to transform financial markets.