



EU framework for crypto-assets

- innovation through legal certainty

DG FISMA

European Commission

Political context

- State of the Union – Europe’s digital decade:
 - *“Europe must now lead the way on digital – or it will have to follow the way of others, who are setting these standards for us.”*

Opportunities & risks of Digital Finance

- Creating opportunities for consumers and businesses & help tackle COVID-19;
- Changing finance fundamentally, bringing benefits & risks;
- Supporting Europe's Twin Transition (e.g. Green Deal & Digital Agenda) and the New Industrial Strategy;
- Inherently cross border:
 - Digital Finance & Single Market go hand in hand - very broad support for more EU action
 - Digital Finance strengthens Banking Union, Capital Markets Union and EMU

Digital Finance Strategy

1

Tackle fragmentation in the Digital Single Market

2

An EU regulatory framework facilitating digital innovation

3

Create a European financial data space

4

Address new challenges and risks

Cross-cutting: create opportunities for and protect consumers

Objectives



Realisation

- Legal certainty
- Supporting innovation
- Consumer protection
- Market integrity
- Financial stability
- Mitigating risks to monetary policy transmission and to monetary sovereignty

Regulation for markets in crypto-assets (MiCA)

- Regulating crypto-asset service providers
- Covering issuers and crypto-assets not covered elsewhere under the EU financial services legislation
- Regulating so-called 'stablecoins'

Regulation on a pilot regime for DLT market infrastructures

- Regulation for market infrastructures based on distributed ledger technology
- Legislative instrument allowing for exemptions from EU law
- Gain evidence base about possible obstacles to the application of DLT

MiCA & the "taxonomy" of crypto-assets

Crypto-asset	Asset-referenced tokens and e-money tokens (general and <u>significant</u> *)	Crypto-assets qualifying as financial instruments
- utility tokens	- asset-referenced tokens - e-money tokens (includes e-money)	Financial instruments (MiFiD)
<i>'<u>crypto-asset</u>' means a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology</i>	<i>'<u>asset-referenced token</u>' means a type of crypto-asset that purports to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or several commodities or one or several crypto-assets, or a combination of such assets</i> <i>'<u>electronic money token</u>' or '<u>e-money token</u>' means a type of crypto-asset the main purpose of which is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a fiat currency that is legal tender</i>	<i>'crypto-assets that qualify as: (a) financial instruments as defined in Article 4(1), point (15), of Directive 2014/65/EU;</i>
<ul style="list-style-type: none"> • 'Catch-all' definition – in line with the FATF recommendations • Not attempting exhaustive list or a full taxonomy • Future-proof 	<p>'<u>Asset-referenced token</u>'</p> <p>A token referring to gold</p> <p>A token referring to several currencies</p> <p>A token referring to other crypto-assets</p>	<ul style="list-style-type: none"> • Promote consistent application across EU (Commission interpretative communication) • DLT pilot
➡ covered by MiCA	➡ covered by MiCA	➡ <u>not</u> covered by MiCA

MiCA: Significant* ART and e-money tokens

- EBA can classify an ART or an e-money token as significant at its own initiative (Art. 39) or at the request of the issuer (Art. 40)
- The criteria to qualify an ART or e-money token as significant are:
 - Size of customer base of the promoters of the asset-referenced tokens;
 - Value of ART or e-money tokens/market capitalisation
 - Size of the reserve of assets
 - Significance of cross-border activity including use for cross-border payments/remittances
 - Interconnectedness with financial system
- The criteria shall be specified by a delegated act. The delegated act cannot set thresholds that are lower than those specified in Art. 39(6)

MiCA: authorisation, regulation & supervision

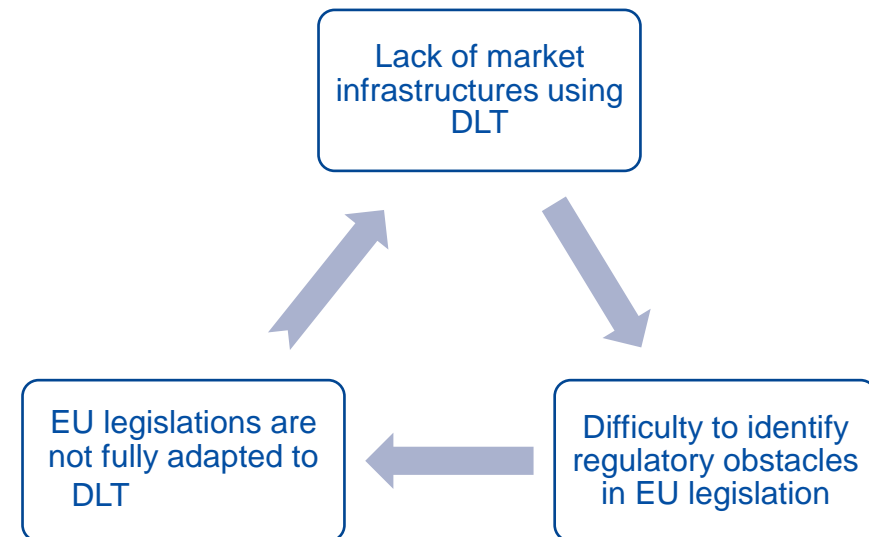
Type	Authorisation	Regulation	Supervision
Crypto assets (CA)	No, but white paper	Information, general obligations	Ad hoc powers NCA
Asset-referenced tokens (ART)	Issuer White paper	Stricter requirements than CA, including own funds & reserve requirements	NCA
→ <i>Significant</i>	<i>Same</i>	+ <i>higher own funds</i> + <i>remuneration</i> + <i>liquidity mgmt.</i> + <i>Interoperability</i>	<i>EBA + college</i>
E-money token (EMT)	Issuer (credit/e-money institution) White paper	Stricter requirements than ART, including redemption at par (1:1)	NCA
→ <i>Significant</i>	<i>Same</i>	+ <i>additional rules on reserves</i> + <i>higher own funds</i> + <i>orderly wind-down</i>	<i>NCA/EBA + college</i>
Service providers (CASPs)	Yes	Requirements on governance, own funds, etc	NCA College (services to ART/EMT)

MiCA: Crypto assets - ecosystem



DLT Pilot - what is the idea?

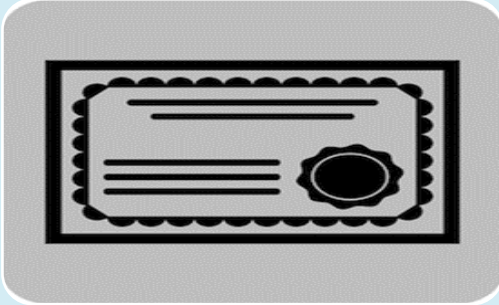
- Development of secondary markets for 'tokenised' financial instruments
- Promote the uptake of DLT in the trading and post-trading area
- Enable market participants and EU regulators to gain experience on new opportunities and issues raised by DLT
- Breaking the cycle, while ensuring financial stability, investor protection and market integrity:



DLT pilot – how does it work?

- **By introducing a pilot regime for DLT market infrastructures.** Under this proposal, DLT market infrastructures can request exemptions from specific requirements embedded in EU legislation (MiFID II, CSDR)
- NCAs are in charge of granting these exemptions, while ESMA ensures supervisory convergence
- To ensure a level playing field across the EU, the exemptions that can be requested are limited and conditions are attached to them.
- This regime is optional

DLT pilot – key attributes



Shares

Issuer market cap < €200m

Bonds

Issuance size < €500m

Overall cap

Total value < €2.5bn



DLT MTF

MTF operated by market operator/investment firm; only admits DLT transferable securities

DLT SSS

SSS operated by a CSD; settles transactions in DLT transferable securities



Exemptions

CSDR (book-entry for MTF; outsourcing, participants, cash settlement and standard link/access for SSS)

New rules

Business plan/documentation; DLT; transparency; cyber; safekeeping.



Permission

NCA; up to 6 years

Exemption

DLT MTF/SSS → NCA

Coordination

ESMA

Thank you!



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