

## Legal Update

# Final RTS under MiCAR Issued by ESMA

The last of a series of final reports containing regulatory technical standards (“RTS”) and guidelines (the “Guidelines”) ahead of the full entry into application of the Markets in Crypto Assets Regulation (“MiCAR”) was published by the European Securities and Markets Authority (“ESMA”) on 16<sup>th</sup> December 2024. ESMA has now published over 30 such RTS and guidelines relating to MiCAR.

### Background

MiCAR extends the European financial services regulatory framework to the crypto world. It became applicable to issuers of asset referenced tokens (“ARTs”) and electronic money tokens (“ESTs”) from the end of June 2024 and to the issuers of utility tokens and crypto asset service providers (“CASPs”) from December 2024. However, some existing businesses will be grandfathered for up to 18 months.

### Scope of the Latest RTS

The final RTS issued related to market abuse. They specify systems and procedures to prevent and detect market abuse in crypto-assets, provide a template for reporting suspected cases as well as coordination procedures between authorities for the detection and sanctioning of cross-border market abuse situations.

### Scope of the Latest Guidelines

The Guidelines issued relate to Reverse Solicitation, Client suitability analysis, crypto asset transfer services, the circumstances under which

crypto assets will qualify as financial assets and operational issues including security measures.

The rules relating to reverse solicitation clarify that this should be exceptional, confined to cases where the client is the sole initiator and narrowly construed. This interpretation is also relevant for other legislation referencing it, e.g. AIFMD.

The extent and scope of the Guidelines is such that separate detailed analysis is necessary for each one

### Next Steps

The final reports, together with the draft RTS, have been submitted to the European Commission for adoption. The guidelines will be translated into the official EU languages and published on the ESMA website. They will apply from three months after the publication of the translations.

### How Clerkin Lynch Can Help

Clerkin Lynch’s financial services team can assist with authorisation applications with the Central Bank as well as providing advice on whether any such authorisation is required.

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