

CASP Application Form Issued

The Central Bank of Ireland (the “Central Bank”) recently issued a new application form for entities seeking authorisation as Crypto Asset Service Providers (“CASPs”) under the Markets in Crypto Assets Regulation (“MiCAR”). This comprehensive 39 page form clearly sets out the expectations of the Central Bank as national competent authority under MiCAR and further guidance is available on the website.

Background

MiCAR has extended the European financial services regulatory framework to the crypto world. It is designed to ensure that crypto related services not previously subject to regulation in the European Union are regulated under equivalent legislation to ensure legal certainty, protect investors and consumers and safeguard financial stability.

It became applicable to issuers of Asset Reference Tokens (“ARTs”) and Electronic Money Tokens (“EMTs”) from the end of June 2024 and to the issuers of Utility Tokens and CASPS from December 2024. However, some existing businesses operating prior to the effective dates, including Virtual Asset Services Providers (“VASPs”) will be grandfathered for a period.

CASP Services

The following services require CASP authorisation:

- Providing custody and administration of crypto-assets on behalf of clients
- Operation of a trading platform for crypto-assets
- Exchange of crypto-assets for cash (fiat)
- Exchange of crypto-assets
- Execution of client crypto-orders
- Placing of crypto-assets
- Reception and transmission of orders for crypto-assets on behalf of clients

- Providing advice on crypto-assets
- Providing portfolio management on crypto-assets
- Providing transfer services for crypto-assets on behalf of clients

These are essentially similar to MiFID regulated services except relating to crypto assets.

Guidance

The Central Bank has issued guidance on its website, including the text o speeches from its recent briefing on MiCAR held in Dublin.

The European Securities and Markets Authority (“ESMA”) has recently issued a statement (the “Statement”) as well as a Q&A document (the “MICA Q&A”) in relation to compliance with the MiCAR. These set out the regulatory expectations of ESMA for National Competent Authorities (“NCAs”), including the Central Bank regarding compliance with this legislation.

How Clerkin Lynch Can Help

Clerkin Lynch’s regulatory services team can assist with obtaining authorisation under MiCAR as well as advising on potential exemptions from these requirements.

We can also advise upon the classification of crypto assets under MICAR for those unsure as to whether they fall under MICAR definitions. Reach out for more information or to discuss related issues.



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