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REGULATORY INSIGHT

Before the File Goes In: Four Lessons from MiCA CASP Licensing

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Any firm that wants to offer crypto-asset services in the European Union, such as holding clients' crypto, running an exchange, executing orders or giving advice, needs a licence under the Markets in Crypto-Assets Regulation (MiCA). The regulation lists what the application must contain. It says far less about how to get a business ready to meet those requirements, and that preparation is where most applications succeed or stall.

With the transitional period now closed across the Union, national authorities are working through a large queue of applications, and the first wave of authorizations has produced real practical experience. This article draws four lessons from it. It is written for the people who will do most of the work: operations, compliance and project leads who know their business well but may not have taken a firm through a licensing process before.

First, the Key Terms

A handful of terms come up throughout the process. It helps to have them straight from the start.

- **MiCA.** Regulation (EU) 2023/1114, a single rulebook for crypto-assets that applies directly in every Member State. The text is the same everywhere, although national authorities differ in how they run the process.
- **CASP.** A crypto-asset service provider: a company authorized under MiCA to provide one or more crypto-asset services. A CASP authorized in one Member State can offer its services in the others by notification, without a second licence. This is known as passporting.
- **Competent authority.** The national regulator in the country where the firm applies. It reviews the application, asks questions and makes the decision.
- **Qualifying holding.** A direct or indirect stake of 10% or more of the firm's capital or voting rights, or any stake that gives significant influence over its management. Holders of qualifying holdings are vetted as part of the application.
- **Ultimate beneficial owner (UBO).** The individual who ultimately owns or controls the firm, often through a chain of holding companies. The authority will want to see through every layer of the chain to the people at the top.
- **Working days.** Every deadline in the process is counted in working days, which exclude weekends and public holidays. Twenty working days is roughly four calendar weeks.

Lesson One: Define the Licence Before Building the Application

Every other part of a MiCA application depends on one question: which crypto-asset services, exactly, will the firm provide? MiCA defines ten distinct services.¹ Each comes with its own conduct rules, and together they determine how much capital the firm must hold. That question has to be answered first, and answered precisely.

The answer is rarely obvious from a product description. A product that a business team calls "a wallet with a swap feature" may involve several regulated services at once. The quickest way to find out is to walk through each feature and ask a few direct questions:

- **Who controls the private keys?** If the firm holds or controls clients' crypto-assets or the keys to them, that is *custody and administration on behalf of clients*.
- **Does the client trade with the firm itself?** If the firm buys from or sells to the client using its own capital, that is *exchange of crypto-assets for funds* (euro or other money) or *for other crypto-assets*.
- **Does the firm match many buyers and sellers?** Running a venue where third parties' orders meet is *operation of a trading platform*.
- **Does the firm pass orders on or carry them out?** Forwarding a client's order to another venue is *reception and transmission of orders*; carrying it out on the client's behalf is *execution of orders*.
- **Does the firm move crypto between addresses for clients?** That is *transfer services*.
- **Does the firm recommend or decide?** Personal recommendations are *advice*; making investment decisions for a client under a mandate is *portfolio management*. Marketing crypto-assets for an issuer to investors is *placing*.

The service list drives the capital requirement. MiCA sorts CASPs into three classes with minimum capital of EUR 50,000, EUR 125,000 or EUR 150,000.² Advice, order handling, placing, transfers and portfolio management sit in the lowest class. Adding custody or exchange moves a firm into the middle class. Operating a trading platform puts it in the highest. In every case the firm must hold the higher of that minimum and one quarter of its previous year's fixed overheads.

It also matters what falls outside MiCA. Crypto-assets that qualify as financial instruments, for example tokens that carry the rights of a share or a bond, are regulated under MiFID II instead. And certain firms that already hold a financial licence, such as banks and investment firms, can add crypto-asset services through a simpler notification under Article 60 rather than applying for a full CASP licence.³

For an operations team, the service list is the blueprint for everything that follows: the policies to write, the roles to fill, the systems to build and the controls to test. The application itself must include a programme of operations explaining, service by service, how each one will be provided.⁴ If the list is too narrow, the firm may discover after authorization that its product needs a service it does not hold, and

must apply again to extend its licence. If the list is too broad, it takes on capital, staff and compliance obligations it does not need, and invites questions about services it cannot yet show working. Settle the service map before any other drafting begins.

Lesson Two: The Regulator Is a Counterpart, Not a Mailbox

Firms new to regulation sometimes treat the competent authority as a filing destination: the application goes in, questions come back, answers go out. That approach wastes the most useful resource in the process. Authorities exercise real judgement under MiCA. They decide whether an application is complete, how requirements apply to a firm of a particular size, what evidence is sufficient, and whether an unusual structure can work within the rules.

Much of that judgement can be understood before it is exercised, through early contact. Most authorities are willing to meet prospective applicants; it is worth asking how a particular authority prefers to handle it. In practice, a useful pre-application exchange looks like this:

- **A short presentation of the business.** What the firm will do, for which clients, in which countries, with what ownership, people and technology. Plain language, not marketing.
- **A list of specific questions.** Points where the firm's model tests the rules: an intragroup outsourcing arrangement, a role filled part-time, a custody set-up with an outside provider, a product feature whose classification is unclear.
- **Agreement on evidence.** Which documents the authority expects to see, in what form, and in which language.
- **A written record.** Short minutes, sent to the authority afterwards, of what was discussed and any views expressed.

Where the rules leave room for flexibility, the authority is the one who grants it. MiCA expects requirements to be applied in proportion to the size and complexity of the firm, and an authority may accept, for example, a phased approach to certain hires

or an outsourced internal audit function for a small firm. A firm that has explained its business clearly and early is in a much better position to ask for that than one raising the point in reply to a deficiency letter.

Authorities are also under pressure to be thorough. In January 2025, ESMA, the EU's securities markets authority, issued a supervisory briefing asking national authorities to treat no CASP as inherently low-risk, to check that key functions are genuinely carried out in the EU rather than run from elsewhere, and to test whether business plans are realistic, including a scenario in which revenue falls well short of projections.⁵ An authority working to that standard forms a view of an applicant from the first contact. Early dialogue gives the firm the chance to shape that view with accurate information, and to agree a working solution that meets the regulatory objective without forcing the business into a structure that does not fit it.

Lesson Three: Some Provisions Cannot Be Read Mechanically

Much of MiCA is precise. Some of it is not, and the imprecise parts tend to concern the people behind the firm. The clearest example is the suitability assessment of shareholders. Article 68 requires every shareholder with a qualifying holding, whether held directly or through other companies, to be of sufficiently good repute, and allows the authority to refuse where their influence could be harmful to sound and prudent management of the firm.⁶

In plain terms, the authority wants to be satisfied that the people who own and control the firm are honest, financially sound and acquired their money legitimately. Applying that to a real ownership structure raises questions the regulation does not answer on its face. Consider a typical case: an EU operating company owned 60% by a holding company in another country, which is in turn owned by a trust set up for the founder's family. The authority will ask, at each layer, who owns it, who controls it, and where the money came from. Common sticking points include:

- **How far up the chain to go.** Every company, trust, foundation or fund between the firm and the individuals at the top may need to be explained and documented.

- **Source of wealth.** Where a founder's wealth was itself built in crypto-assets, showing its origin can mean reconstructing trading histories, wallet records and tax filings going back years.
- **Acting in concert.** Two or more shareholders with small stakes may be treated as one holder if they coordinate, for example under a shareholders' agreement.
- **Significant influence.** A shareholder below 10% may still be assessed if board seats, veto rights or financing arrangements give them real influence.

The joint ESMA and EBA guidelines on suitability, published in June 2024, give useful direction on indirect holdings, acting in concert and significant influence.⁷ A separate delegated regulation sets out the information that must be provided about proposed holders.⁸ But neither can anticipate every structure, and both leave the final judgement to the authority.

The practical consequence is that these questions need a case-by-case assessment and an individual approach. Expect to gather, for each relevant individual, documents such as criminal record certificates, CVs, evidence of source of wealth and funds, and declarations about past regulatory or legal proceedings; and for each company in the chain, constitutional documents, ownership registers and financial statements. A generic questionnaire completed mechanically tends to produce follow-up requests, and follow-up requests use up time the process does not have. The better course is to map the ownership structure early, identify the points on which the authority could reasonably take more than one view, prepare a reasoned position and supporting evidence on each, and raise the harder ones with the authority before filing. The same applies, to a lesser degree, to the members of the management body, whose knowledge, skills and experience must fit the services and scale of the business.

Lesson Four: Be Operationally Ready Before Filing

The single most common mistake is to treat the application as the start of preparation, on the assumption that gaps can be filled while the authority reviews the file. MiCA's procedure does not allow for that. The timetable is fixed by the regulation and runs like this:⁹

- **Within 5 working days** of receiving the application, the authority acknowledges receipt.
- **Within 25 working days** of receipt, it decides whether the application is complete. If documents are missing, it sets a deadline for the firm to provide them.
- **Within 40 working days** of a complete application, it must reach a fully reasoned decision to grant or refuse.
- **During those 40 days**, it may request further information. The clock stops while the firm answers, but only once and for no more than 20 working days.

Put together, a smooth application takes around four months from filing to decision. That timetable is set by law, not negotiated with the applicant, and it cannot be extended to suit a firm that is not ready. An applicant that cannot answer a request in full within the 20-day window, or that answers by describing arrangements still being built, gives the authority grounds to refuse. A refusal is more than a delay. It is a matter of record that the next authority, and future banking partners and counterparties, may ask about. ESMA's review of a CASP authorization in Malta also showed that an authorization granted while material issues remain open can be revisited later.¹⁰

Operational readiness means that on the day of filing, the business described in the application already exists. A practical way to test it is to go function by function:

- **People.** The management body is appointed and its members are prepared for assessment. The firm has its place of effective management in the EU and at least one director resident there.¹¹ Key staff are hired, not merely identified.
- **Governance and control functions.** Compliance, risk management and internal audit are designed, staffed or contracted, with clear reporting lines to the board.
- **ICT and security.** Systems are built and documented to the standard of the Digital Operational Resilience Act (DORA), which applies to authorized CASPs: ICT risk management, incident reporting, resilience testing and oversight of technology suppliers.¹²
- **Anti-money laundering.** Client onboarding and monitoring are working, including the "travel rule" for crypto transfers, which requires information on the sender and recipient to accompany each transfer.¹³

- **Client assets.** Custody arrangements and the segregation of client assets from the firm's own are in place and tested.
- **Contracts and policies.** Outsourcing agreements, complaints handling, conflicts of interest and business continuity policies are signed and approved, not drafts awaiting signature.
- **Business plan.** Three-year projections are credible and include a downside scenario, with capital to cover it.

Each of these will be tested, and each takes longer to put in place than the 20 working days the process allows for an answer.

Practical Priorities for Applicants

- **Map the product to the rules first.** Go feature by feature to determine which crypto-asset services the business provides, whether any activity falls under MiFID II or another regime, and whether the Article 60 notification route is available, before drafting any part of the application.
- **Open a dialogue with the authority early.** Present the business, put specific questions, agree how requirements will be evidenced, and keep a written record. Where flexibility or a proportionate approach is available, raise it at this stage.
- **Map the ownership chain in advance.** Identify every direct and indirect qualifying holder, start collecting documents for each, and prepare reasoned positions on source of wealth, acting in concert and significant influence.
- **Build the business before filing.** Treat the application as a description of an operating firm, not a plan for one. Appoint people, sign contracts, document systems and run the controls before the clock starts.
- **Plan for the information request.** Assume at least one substantive request will arrive, name an owner for each part of the file, and organise the project so that any answer can be produced in full well inside 20 working days.
- **Write the business plan for the downside.** Prepare credible projections, intermediate milestones and a scenario in which revenue falls well short, as authorities have been asked to expect.

Conclusion

MiCA's authorization process is demanding, but it is predictable once its logic is understood. It rewards work done in the right order: first the services, then an open dialogue with the authority, then careful preparation of the judgements the text leaves open, and only then the application, filed by a business that is ready to operate on the day it goes in. Firms that work this way do not avoid scrutiny. They are simply ready for it, and they reach a decision on the timetable the regulation sets, rather than a refusal or a second attempt.

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