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Presidency Discussion Paper
Market Integration and Supervision Package
Directly Supervised Entities and Sectoral Provisions - CASPs

30 March 2026 10:00

Introduction

On 4 December 2025, the European Commission published the proposal on the Market Integration and Supervision Package ('**MISP**'). Article 9 of the MISP Master Regulation introduces amendments to Regulation (EU) No 2023/1114 on Markets in Crypto-Assets ('**MiCAR'**) regarding the transfer of competencies and powers in relation to Crypto-Asset Service Providers ('**CASPs**') from the National Competent Authorities ('**NCAs**') to the European Securities and Markets Authority ('**ESMA**').

More specifically, the Commission proposes that ESMA should become the competent authority under MiCAR in relation to all CASPs authorised pursuant to Article 63 and for entities allowed to provide crypto-asset services pursuant to Article 60(2) to (6), whose main activity is the provision of crypto-asset services as referred to in Article 138a(2), irrespective of size or other criteria. Furthermore, the Commission proposes that ESMA becomes the competent authority for all entities falling under Title VI of MiCAR on prevention and prohibition of market abuse involving crypto-assets.

1. CASPs Authorised Pursuant to Article 63 of MiCAR

Articles 3, 59, 62, 63, 64, 65, 68, 69, 73, 81, 84, 85, 93, 102, 109, 119 and 138a

In the proposed definition of 'competent authority' of **Article 3(1)(35)(c)(i)**, the Commission proposal envisages the transfer of competencies, powers and obligations in relation to authorisation, ongoing supervision and enforcement of MiCAR for CASPs authorised pursuant to Article 63 of MiCAR ('**Article 63 CASPs**), from NCAs to ESMA.

In this respect, the following Articles in Title V and VII of MiCAR are amended:

- **Article 3(1)(35)(a)** regarding the designation of competent authorities by each Member State ('**MS**') in accordance with Article 93, is amended to remove the reference to CASPs. In line with this change, **Article 93** is amended to specify that MS shall designate competent authorities in relation to offerors and persons seeking admission to trading of Title II tokens and in relations to issuers of Title III and IV tokens only, as competency in relation to Title V will, as per the proposal, be granted to ESMA at L1.
- **Articles 59, 62 and 63** are amended to replace the competencies of NCAs in relation to the authorisation process for Article 63 CASPs. The application for authorisation will be submitted to ESMA and ESMA will undertake the assessment of the application. In relation to the documents submitted, the procedure and the timeline for authorisation, the Commission is not proposing any amendments. Similarly, **Article 64** is amended to provide ESMA as the competent authority, with the power to withdraw authorisations pursuant to Article 63, with some of the reasons for withdrawal been transferred to the newly proposed Article 39h(2) of Regulation (EU) 1095/2010 (the '**ESMA Regulation**') and referenced in the first paragraph of Article 64.

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- **Article 65** regarding cross-border provision of crypto-asset services is renamed to 'Provision of crypto-asset services in MS other than the home MS', where 'home MS' as per Article 3(33)(f) is that of the MS where the CASP has its registered office. The amendments of this Article 65 aim to define ESMA as the authority to receive notifications from Article 63 CASPs, intending to provide crypto-asset services in MS other than the home MS and any changes in relation to the provision of those services.

- **Articles 68, 69, 73, 81 and 84** are amended to provide ESMA with supervisory powers in relation to changes in the qualifying holdings or management body of Article 63 CASPs, to allow for records and information to be sent to ESMA, for the criteria used for assessing the knowledge and competence of natural persons giving advice or information about crypto-assets or crypto-asset services to be published by ESMA, as well as provide ESMA with powers to assess the compliance of the Article 63 CASPs with outsourcing arrangements.

- Furthermore, the Commission proposes the deletion of **Article 85** on the identification of significant CASPs, which includes at least annual updates from the NCA to ESMA regarding the authorisations, withdrawals of authorisation and supervisory powers exercised in relation to significant CASPs. In line with the authorisation and supervision of Article 63 CASPs been envisaged to move to ESMA, this article is considered obsolete as ESMA will be the owner of this information.

- In line with the proposal for ESMA to be the supervisory authority for all Article 63 CASPs, **Article 102** is amended to reflect that home and host MS shall inform ESMA when having clear and demonstrable grounds of any suspicion of irregularities in the activities of those CASPs.

- The Commission proposes the deletion of **Article 109(5)(c)** as ESMA is envisaged to be responsible for granting all Article 63 CASP authorisations and thus the registry does not need to include the name of the competent authority.

- Finally, the amendment in **Article 119(2)(d)** reflects that supervisory colleges for issuers of significant asset referenced tokens need not include competent authorities of crypto-asset service providers, as ESMA is already included as a member of such colleges under Article 119(2)(b), whereas the addition of **Article 138a(1)** clarifies that ESMA is responsible for carrying out the functions and duties provided for in MiCAR with regards to Article 63 CASPs.

Preliminary Views of the MS:

In relation to centralisation of supervision of Article 63 CASPs, several MS raised proportionality concerns and lack of evidence and reasoning for this proposal. Certain MS with previous national regimes, raised concern regarding the loss of national expertise and some MS raised reservations regarding negative impact on small, local and innovative market players. A few MS were supportive of centralisation for all CASPs, with one proposing expansion of centralisation to Title II- IV of MiCAR.

Some MS noted that while they are not supportive of the proposed centralisation, they are willing to discuss centralisation for some significant CASPs in alignment with proposed changes in other sectoral legislations under MISP (i.e. MiFIR, EMIR, and CSDR).

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Questions to MS

1. ***Do MS agree with the Commission proposal that Article 63 CASPs should be directly supervised by ESMA? If so, should this apply to all Article 63 CASPs or a subset of Article 63 CASPs deemed as 'significant'?***
2. ***If MS support centralisation of 'significant' CASPs, what criteria should be used to define 'significance'? Should the definition include a size threshold in number of clients or assets under custody, business model or another set of criteria?***

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2. Entities Allowed to Provide Crypto-Asset Services Pursuant to Article 60 of MiCAR

Articles 3, 60, 65, 76, 102, 138a

In the proposed definition of 'competent authority' of **Article 3(1)(35)(c)(ii)**, the Commission envisages the transfer of competencies, powers and obligations for entities allowed to provide crypto-asset services pursuant to Article 60(2) to (6) whose main activity is the provision of crypto-asset services ('**Article 60 CASPs**'), from NCAs to ESMA, similar to Article 63 entities. For Article 60 CASPs whose main activity is not the provision of crypto-asset services, the competent authority remains the one that granted their authorisation under other Union sectoral legislation, and thus they are not mentioned in the definitions of Article 3 of MiCAR.

For determining whether the crypto-asset services of Article 60 CASPs become their main activities, the Commission aims to introduce a reporting requirement under paragraph 6a of **Article 60** for Article 60 CASPs, to submit yearly to their NCA and ESMA, information on their total annual turnover, and in particular the percentage of their total annual turnover as per the latest approved financial statements, generated from the provision of crypto-asset services.

Based on the reported percentages and as of the proposed introduction of **Article 138a(2)** second subparagraph, an Article 60 CASP shall be considered to be providing crypto-asset services as its main activity when for at least 2 consecutive years, based on the last available financial statements, more than 50% of its total annual turnover is generated from the provision of crypto-asset services. The rest of paragraph 2, further clarifies that for Article 60 CASPs whose main activities are the crypto-asset services, the ongoing supervision and the functions and duties provided in MiCAR, as well as the supervisory functions and duties provided in other Union legislative acts on financial services will be transferred to ESMA, and ESMA will enter into cooperation agreements with the NCAs under the sectoral legislation for support and assistance to ESMA.

The amendments to **Article 65** described above on provision of crypto-asset services in MS other than the home MS, result in disapplying Article 65 to Article 60 CASPs. In relation to Article 60 CASPs the information of cross-border activities is received by the NCA as part of the programme of operations

notified under Article 60(7)(a) which includes information on where and how the services are to be marketed.

Furthermore, amendments to **Article 76** create a reporting obligation for Article 60 CASPs whose main activity is not crypto-asset services and hence are not envisaged to be transferred under the supervision of ESMA, of their transaction and order book data to ESMA in addition to their NCA as per MiCAR now. This seems to be linked to the changes in relation Title VI on prevention and prohibition of market abuse involving crypto-assets.

Lastly, the amendments to **Article 102** and in particular the addition of the last sentence in paragraph 3, gives ESMA the power to escalate to the Commission any precautionary measures taken by a home or host MS for suspected irregularities that ESMA disagrees with, similar to the current power that home NCAs have to escalate to ESMA any precautionary measures taken by host MS that home MS disagrees with.

Preliminary Views of the MS:

In relation to the proposed centralisation of supervision of Article 60 CASPs whose main activity is the provision of crypto-asset services, several MS requested the rationale and questioned the criterion for determining whether the provision of crypto-asset services is the main activity, with few voicing that it is overly simple while others are concerned that it could result in unlevel playing field. A few MS were also concerned on how practically the transfer to and from ESMA will work in case the percentage of turnover from crypto-asset services is fluctuating close to the 50% threshold.

In relation to the transfer of the supervisory functions under other sectoral legislation to ESMA once the provision of crypto-asset services becomes the main activity, several MS voiced disagreement and question whether ESMA has the expertise to supervise the other financial services provided by Article 60 CASPs and how the cooperation arrangements will work in practice. One MS also noted that paragraph 6a of Article 60 creates a new reporting obligation and whether the recipient of that data should be ESMA directly.

Questions to MS:

3. ***Do MS agree with the Commission proposal that Article 60 CASPs whose main activity is the provision of crypto-asset services, should be directly supervised by ESMA?***
4. ***Do MS agree with the criterion used to determine whether the provision of crypto-asset services becomes the main activity? If so, do MS find useful the introduction of a procedure (i.e. through RTS) for submitting the information on turnover for the transfer of supervision? If no, what other metric could be used instead?***
5. ***Do MS agree with the transfer to ESMA of the supervisory functions and duties under the sectoral legal texts when supervision is transferred for Article 60 CASPs?***
6. ***Do MS believe that Article 60(7) provides enough information to NCAs in relation to cross-border activities, taking into account that Article 65 of MiCAR is disapplied for Article 60 CASPs under NCAs?***

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3. Title VI of MiCAR on Prevention and Detection of Market Abuse

Articles 76, 92, 94, 111, 138g

The Commission proposes for ESMA to be responsible for monitoring and enforcement actions against market abuse in relation to all crypto-asset activities, irrespective of whether the CASP is directly supervised by ESMA.

For this to be possible, firstly all transaction and order book data from CASPs operating trading platforms are envisaged to be sent to ESMA as per the amendments of **Article 76**. Furthermore, suspicious transaction reports disseminated by persons professionally arranging or executing transactions in crypto-assets will as per the amendments of **Article 92**, also be sent to ESMA without delay.

The Commission proposed holistic market abuse monitoring and supervision under ESMA for all crypt-asset activities and thus **Article 94(3)** regarding the supervisory powers of NCAs in relation to Title VI is deleted. In line with this change, **Article 111** regarding the administrative penalties and other administrative measures that MS shall provide for NCAs through national law, is amended to remove the reference in paragraph 1, sub-paragraphs (e) and (f) to infringements of articles 88-92 and failure to cooperate or comply with an investigation, inspection or request as referred to in article 94(3), respectively.

The proposal provides ESMA with the necessary supervisory and investigatory power under the newly added **Article 138g**, paragraph 2, to fulfil its duties under Title VI.

Preliminary Views of the MS:

Few MS questioned whether the changes in relation to Title VI implied that ESMA will be the competent authority for the entire crypto-assets market despite whether the CASPs are directly supervised by ESMA.

Question to MS:

7. ***Do MS agree with the Commission's proposal regarding Title VI of MiCAR?***

4. Supervisory Responsibilities, Powers and Competencies of ESMA with Respect to CASPs and Transitional Measures

Articles 138a-138j, Annex VII and Article 143a

Article 138a extends to ESMA the powers granted to NCAs pursuant to Regulation (EU) No 909/2014 ('**CSDR**'), Directive 2014/65/EU ('**MiFID**'), Directive (EU) 2009/110/EC ('**EMD2**'), Directive 2009/65/EC ('**UCITSD**') and Directive 2011/61/EU ('**AIFMD**'). It is worth noting that as clarified by the Commission in their technical seminar in January 2026, CASPs are also obliged entities under the Anti-Money

Laundering framework and are included in the scope of the Digital Operations Resilience Act ('**DORA**') with the competent authorities under MiCAR to be the competent authorities under DORA.

Furthermore, similar to Chapter 5 of Title VII of MiCAR in relation to the EBA powers and competences when it acts as the supervisory authority for issuers of significant asset reference tokens, **Chapter 6** is added in Title VII to provide ESMA with the powers and responsibilities not covered by the ESMA Regulation but nevertheless necessary for the supervision of CASPs.

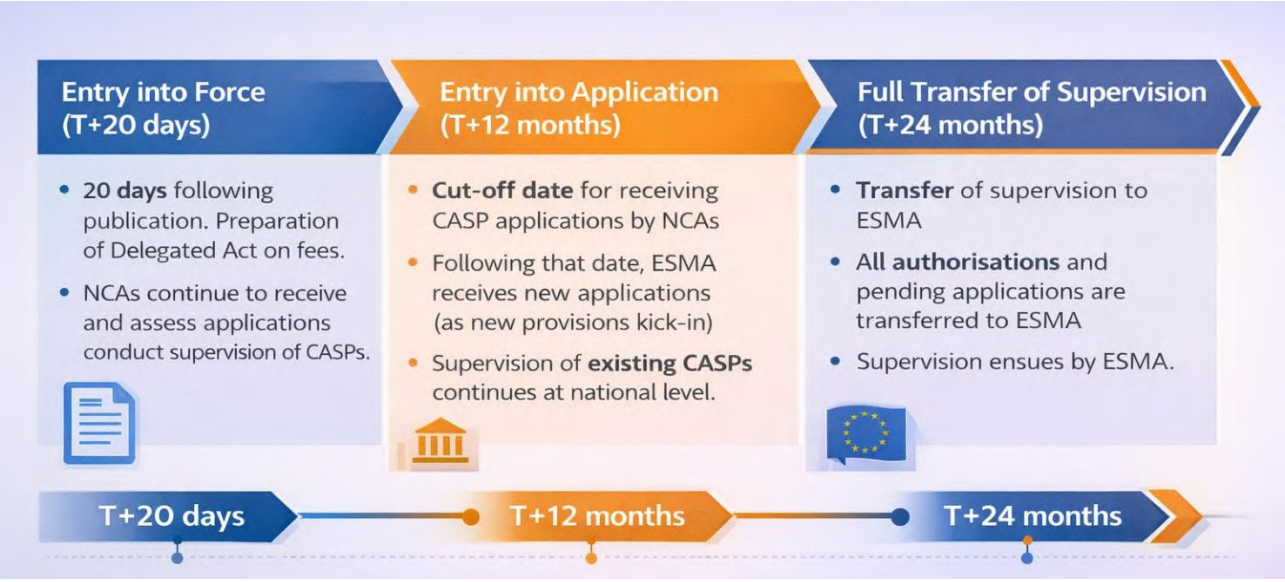
For example, as mentioned above, the supervisory measures by ESMA, include powers in relation to the monitoring and supervision of market abuse as the Commission proposes that ESMA performs market surveillance for market abuse in relation to crypto-assets and the power to remove or restrict content from an online interface, or order a hosting service to do so, or order domain registries to delete a domain, which are powers specific for crypto-asset activity. In addition, the level of fines in MiCAR is much higher than those in the ESMA Regulation.

In addition, similarly to **Annex VI** for EBA, a new Annex VII is added to list the possible infringements against which ESMA may take supervisory measures.

The proposal in **Article 138f** provides that where a CASP engages in other activities, ESMA shall cooperate with authorities responsible for the supervision of such other activities as provided in the Union or national law, including tax authorities, and relevant supervisory authorities of third countries.

Lastly, regarding the transitional period, Article 15 of the proposal for the MISP Master Regulation provides that Article 9 shall apply 12 months after the date of entry into force of the Master Regulation. The addition of **Article 143a** in MiCAR proposes a further transitional period to allow for the smooth transfer of supervisory duties, catering for CASPs already authorised and pending applications still assessed at national level, while allowing the set-up of the new ESMA governance model to take effect and therefore render ESMA in a position to assume supervisory authority functions. The transitional provisions for MiCAR should therefore be aligned with the transitional provisions in the ESMA Regulation creating the new ESMA governance structure.

According to the proposal, the transition in CASP supervision should take place as follows:



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Preliminary Views of the MS:

No major comments or concerns were received in relation to this section. One MS raised concern in relation to Electronic Money Institutions and in particular the interplay between MiCAR and PSD2/3 and PSR.

Questions to MS:

8. ***Do MS agree with the approach regarding ESMA supervisory powers in relation to the supervision of CASPs?***
9. ***Do MS consider that this section could be further simplified by referring to the ESMA Regulation powers? For example, the Presidency has identified an overlap between Article 139i on the disclosure, nature, enforcement and allocation of fines and periodic penalty payments of ESMA with Article 39k of the ESMA Regulation, as well as an overlap between Article 138h(2) and Article 39e of the ESMA Regulation.***
10. ***Do MS agree with the transitional measures?***