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The Markets in Crypto-Assets Regulation (MiCAR)

A jurisdictional comparison of national implementations of MiCAR

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With the Markets in Crypto-Assets Regulation (MiCAR) (Regulation (EU) 2023/1114) becoming fully applicable by the end of this year, crypto-asset service providers seeking to offer their services across the EU need to consider which jurisdiction is most suitable for them to file their CASP authorisation applications and the extent to which they can avail of national transition regimes.

In this document, we set out a comparative guide across a few key jurisdictions, covering factors such as the national approach to implementing MiCAR in the context of CASP authorisation applications, and timing considerations.

Implementation status of MiCAR across key jurisdictions

	France	Italy	Ireland	Spain	The Netherlands	Germany
Relevant body	Autorite des marchés financiers (AMF)	Commissione Nazionale per le Società e la Borsa ("CONSOB") and Banca d'Italia	The Central Bank of Ireland (CBI)	National Securities Market Commission (CNMV) ¹	Autoriteit Financiële Markten (AFM) ²	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) together with Deutsche Bundesbank (German Federal Bank)
MiCAR implementation status	<p>France has implemented an "enhanced" regime for DASPs, which seeks to "top up" the registration requirements to be broadly in line with MiCAR (i.e. to enable quicker transition to CASP requirements). The regime has been mandatory since 1 January 2024 – although persons who have not submitted a registration file deemed "complete" by the AMF by 1 July 2023 would have been required to complete and update their file to comply with the provisions of the "enhanced" DASP registration. DASPs that have filed a "complete" application for registration prior to 1 July 2023 would be subject to the simplified regime.</p>	<p>CONSOB has expressed that it is now available for informal, "preliminary" discussions with interested parties, and invites such parties to email CONSOB at interlocuzioni.CASP@consob.it with the attached form.</p> <p>The decree implementing MiCAR (Legislative Decree 129/2024) was published in the Official Journal of the Italian Republic on 13 September 2024 and entered into force the next day. According to the mentioned decree, VASPs already enrolled in the register kept by Organismo Agenti e Mediatori ("OAM") at 27 December 2024 which:</p> <ul style="list-style-type: none"> • apply for a CASP authorisation in Italy – or in another Member State – within 30 June 2025 may continue to operate according to the current VASP regime until 30 December 2025 or the date on which the authorisation is granted or refused, if earlier; • do not apply for CASP authorisation in Italy or in another Member State within 30 June 2025 will have to terminate their business in Italy and be cancelled from the OAM register. 	<p>The CBI has indicated that interested parties should now pursue CASP applications rather than VASP registrations and invites potential applicants to commence engagement with the CBI via email in good time (although the relevant application forms are not yet available). Note that the application process with the CBI involves an "Initial Engagement" stage and a "Key Facts Document (KFD)" stage, which require continuous engagement with the CBI, prior to CASP application submission.</p> <p>There is a 12-month transitional period in Ireland for registered VASPs providing their services in accordance with national law.</p>	<p>In July 2024, the CNMV stated that it has been accepting CASP applications from September 2024 (although the CNMV will not grant any authorisations until 30 December 2024).</p> <p>The CNMV also published documents (in Spanish only) related to the CASP application submission process, including a "Manual to apply for authorisation of crypto-asset service providers (CASP)", and a "Template for notification of information to be submitted by certain financial entities for the provision of crypto-asset services" (which were modelled on the draft technical standards).</p>	<p>The AFM is now accepting CASP applications (and the forms are available online), and has issued a number of guidance documents including on the CASP application process.</p> <p>The draft implementation legislation in relation to MiCAR is adopted by the Dutch House of Representatives (Tweede Kamer) and is pending to be submitted to the Dutch Senate (Eerste Kamer), which is the final step in the legislative procedure.</p>	<p>The draft legislation which implements MiCAR (i.e. the Kryptomärkteaufsichtsgesetz - KMAG) is going through the legislative process and has not yet entered into force.</p> <p>BaFin has further stated that:</p> <ul style="list-style-type: none"> • entities who have already registered with BaFin who may benefit from the transition period (i.e., entities with an authorisation for crypto-asset services under bespoke German rules) will be able to use a "simplified procedure" under an upcoming "Regulation on the Implementation of the Simplified Procedure under Article 143(6) of Regulation (EU) 2023/1114". • entities who are authorised entities (e.g. credit institutions) may begin submitting information starting 1 July 2024 to prepare for the notification procedure under Article 60 of MiCAR. • entities (who have not previously been registered) preparing for the CASP authorisation application procedure may, in consultation with BaFin's competent Division ZK 4, begin to submit initial information from 1 July 2024.

1. The Banco de España will exercise certain supervisory functions.

2. The AFM will liaise with Dutch Central Bank (DNB), where necessary. Also, DNB can be contacted for questions on prudential requirements.

Implementation status of MiCAR across key jurisdictions (continued)

	France	Italy	Ireland	Spain	The Netherlands	Germany
Transition deadline³	1 July 2026	30 June 2025	30 December 2025	30 December 2025	30 June 2025	31 December 2025
No. of registered entities under existing regimes⁴	107 ⁶	152	15	122	44	11 ⁷
Estimated time required for authorisation process⁵	<p>The assessment period for CASP authorisation applications is yet to be determined.</p> <p>Under the existing VASP regime, the AMF decides within 6 months upon receipt of complete documentation and information.</p> <p>The AMF has also announced that it has been accepting CASP authorisation applications since July 2024.</p>	<p>The assessment period for CASP authorisation applications is the one set out under MiCAR.</p> <p>Under the existing VASP regime, OAM decides within 15 days from the receipt of the application.</p> <p>The procedure may be suspended only one time for a maximum of 10 days and OAM may ask for additional documents or information if something is missing.</p>	<p>The CBI will review the application for completeness in 25 working days. The assessment period of a completed application is 40 working days, although additional information may be requested from the applicant, resulting in one suspension of the assessment period (of no more than 20 working days).</p> <p>The CBI will then communicate the outcome of the decision (i.e. grant or refusal of the authorisation) within 5 working days.</p> <p>In practice, the full process—including the Initial Engagement and KFD stage (prior to submission of an application) to application and approval, and any extensions due to additional information being required—is likely to require at least 12 months, depending on the nature, scale and complexity of the applicant firm.</p>	<p>The assessment period for CASP authorisation applications is yet to be determined.</p> <p>Under the existing VASP regime, the time period for the Banco de España to approve or reject a VASP registration application is 3 months, which may in practice be extended where additional information is requested.</p>	<p>The AFM has indicated a processing time of around 5 months (105 working days) with respect to CASP applications—in practice this time period may be extended to 6-12 months from submission to final approval.</p>	<p>The assessment period for CASP authorisation applications is as set out under MiCAR (note that MiCAR timelines hinge on submission of a "complete" application, which may, in practice, lead to longer periods).</p>

3. The date until which mandatory CASP authorisation is required for entities already registered with or otherwise authorised by the relevant national authority under the pre-existing regime before 30 December 2024.
4. Number of virtual asset service providers (VASPs) registered or authorised by the relevant national authority under pre-existing regimes (such as national implementations of the 5th Anti-Money Laundering Directive).
5. This timing can be distinguished from timelines applicable to authorised financial institutions such as credit institutions, central securities depositories and investment firms—such entities may avail of an alternative notification procedure to the competent authority under MiCAR.
6. Number of DASPs registered: 106; Number of DASPs licensed (under the voluntary regime): 1
7. The VASP regime in Germany is distinct from many other EU jurisdictions. For simplicity, this figure refers to the number of entities registered as a “crypto custody business” (or “Kryptoverwahrer”)— this figure does not include credit and financial institutions, investment firms, and other regulated entities that may be permitted to undertake activities in relation to crypto-assets under the wider financial services regime.

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If you are interested in discussing any of these topics further, please do not hesitate to reach out to any member of the Hogan Lovells team.

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