

REGULATORY INTELLIGENCE

COUNTRY UPDATE-Portugal: Crypto-asset regulation

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Crypto-asset regulation in Europe is undergoing massive change as the EU's landmark Markets in Crypto Assets regulation (MiCA) took effect during 2024. Member states and non-EU countries have introduced, or plan to introduce, national rules for improving investor protection and reducing money laundering and market integrity risks associated with this revolutionary but controversial asset class.

Crypto-assets' common feature is using distributed ledger technology (DLT), and they include cryptocurrencies, securities tokens and utility tokens. A subcategory of cryptocurrency called stablecoins, which purport to maintain their value by reference to another asset or assets, are a particular concern for regulators because they can carry stability risks.

After an outline of EU legislation, this article provides an overview of crypto-asset regulation in Portugal by [Ana Sofia Batista](#), [Isabel Pinheiro Torres](#), [Diogo Pereira Duarte](#) and [Maria Eduarda Andrade](#) of [Abreu Advogados](#).

Principal EU legislation**Markets in Crypto-Assets Regulation (EU) 2023/1114 (MiCA)**

MiCA establishes a harmonised EU-wide framework for issuing, dealing or intermediating crypto-assets. MiCA treats stablecoins differently from other crypto-assets and divides them into "asset-referenced tokens" and "electronic money tokens". Stablecoins that pass threshold conditions will be classified as "significant" by the European Banking Authority (EBA).

MiCA's level 1 rules on stablecoins took effect on June 30, 2024 and its remaining provisions on December 30, 2024.

The European Securities and Markets Authority (ESMA) published [three consultation packages](#) of MiCA level 2 regulatory technical standards and guidelines between July 2023 and March 2024. The [final report](#) for the first package was issued in March 2024, the [final report](#) for the second package in July 2024 and the final report on the third package in December 2024.

Revised Transfer of Funds Regulation (EU) 2023/1113 (TFR)

The TFR has been applicable since December 30, 2024 to coincide with the majority of MiCA rules and extends the "travel rule" applicable in traditional finance to crypto-assets. This means information on the source of an asset and its beneficial ownership will have to "travel" with a transaction and be stored on both sides of a transfer.

Fifth Money Laundering Directive EU 2018/843 #5MLD)

This extended the Fourth Money Laundering Directive regime to "providers engaged in exchange services between virtual and fiat currencies" and to "custodian wallet providers".



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On April 24, 2024, the European Parliament adopted a package of AML measures, including an [AML Regulation](#) (AMLR), which will apply from July 10, 2027. When it takes effect, AMLR will extend AML and due diligence requirements to most of the crypto sector, not just the entities covered by 5MLD.

[Revised Markets in Financial Instruments Directive EU 2014/65 \(MiFID 2\)](#)

Some crypto-assets qualify as "financial instruments" under MiFID 2 [article 4\(1\) point 15](#) and the associated list in [section C of annex 1](#).

[Second Electronic Money Directive EU 2009/110 \(EMD2\)](#)

The Commission has acknowledged that some single fiat currency-backed stablecoins can be "electronic money" as defined by EMD2 [article 2\(2\)](#) so there can be overlap with MiCA. EMD2 is being replaced by a new Payment Services Directive (PSD3), on which the European Committee has decided to enter into inter-institutional negotiations in November 2024.

Crypto-asset regulation in Portugal

1. Which body or bodies regulate crypto-assets and related activities?

Until the end of 2024, under national law, crypto-assets and related services were subject to the regulatory powers of the Bank of Portugal for anti-money laundering and countering terrorism financing (AML/CFT) purposes, overseeing the registration procedure for entities that intend to act as virtual assets service providers and ensuring compliance with all rules pertaining to AML/CFT.

Until December 30, 2024, the regulatory powers of the Bank of Portugal within VASP registrations were strictly limited to verification of VASP compliance with AML/CFT regulations, as per Law no. 83/2017 of August 18, and did not include the supervision of prudential matters.

With the entry into force of MiCA, VASP registrations are no longer in place. Considering that the MiCA Draft Law — which designates the Bank of Portugal and CMVM as the national competent authorities for MiCA applications, depending on the specific activities — has not yet been approved, currently neither the Bank of Portugal neither CMVM are accepting MiCA applications, until such law is approved.

For VASP entities duly registered with the Bank of Portugal and in activity it has been established a transitional period which is set forth to end on December 31, 2025.

However, while the MiCA Regulation has not yet been implemented in Portugal, a proposed Law (Draft Law no. 32/XVII/1, "Draft Law") has already been introduced to that effect. Under the terms of the Draft Law, supervisory responsibilities would be divided between the Bank of Portugal and the Portuguese Securities Market Commission ("CMVM"), with the Insurance and Pension Funds Supervisory Authority ("ASF") involved in relation to requests for opinions on the legal qualification of crypto assets.

Under the Draft Law, the Bank of Portugal would assume primary responsibility for the authorisation of public offerings and trading admissions of asset-referenced tokens, the supervision of e-money token issuers, including those classified as significant, the licensing and acquisition of crypto-asset service providers ("CASPs"), the ongoing supervision of significant CASPs, and the monitoring of prudential requirements, governance mechanisms and outsourcing practices and orderly wind-down procedures of CASPs.

CMVM responsibilities would include the supervision of public offerings of crypto-assets other than asset-referenced or e-money tokens, the oversight of admissions to trading of such crypto-assets, including on platforms having Portugal as their home member state, and the prevention and enforcement of market abuse rules related to crypto-assets.

The CMVM would also oversee specific crypto-asset services (including custody and administration on behalf of clients, operation of trading platforms, exchange of crypto-assets for funds or other crypto-assets, provision of advice, and portfolio management). In addition, the CMVM would supervise the implementation and maintenance of internal policies and procedures for the identification, prevention, management, and disclosure of conflicts of interest.

The Draft Law also provides a transitional regime until December 30, 2025 for entities already registered with the Bank of Portugal under the AML/CTF Law and that have effectively started and reported their activity, allowing them to continue operating as CASPs during that period. Registrations that are pending, or that relate to entities which have not yet commenced activity by 30 December 2024, will lapse, requiring new authorisation under the Proposal. The transitional period in Portugal is shorter than the maximum allowed under MiCA and may result in limited time for entities to obtain authorisation once the new regime is approved.

2. Does any existing or proposed national law regulate crypto-asset issuers or service providers?

On September 16, Draft Law no. 32/XVII/1st was presented by the Government to the Portuguese Parliament, introducing the legislative measures necessary to implement the MiCA Regulation into Portuguese national law. The Draft Law will now move through parliamentary scrutiny, where its provisions may be confirmed or revised in the months ahead. Any resulting changes could still impact entities looking to operate under the new regime.

The Draft Law outlines the process for the authorisation regime for CASPs, establishing a system of shared competence between the Bank of Portugal and the CMVM. Under this framework, applications for authorisation must be submitted to the Bank of Portugal, which will then notify the CMVM. The CMVM may issue an opinion within 10 to 15 days, as provided for in the MiCA Regulation, if it identifies



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grounds that would prevent a favourable decision. If the CMVM does not issue an opinion within that period, it will be deemed not to object to the proposed authorisation.

The Bank of Portugal and the CMVM are expected to adopt regulatory standards in line with the provisions of Article 29 of the Draft Law.

The Draft Law also establishes specific requirements for CASPs employees who provide advisory services, aiming to ensure that such advice is delivered by professionals with adequate qualifications and experience.

With regard specifically to crypto-asset issuers, the Draft Law applies only to issuers of asset-referenced tokens and e-money tokens. Its focus rests primarily on defining the competent supervisory authorities, as the relevant authorisation procedures for these activities have already been established under Delegated Regulation (EU) 2025/1125, which supplements the MiCA Regulation.

The Draft Law further sets out a series of measures applicable to both CASPs and issuers of asset-referenced tokens or e-money tokens, with the aim of safeguarding crypto-asset holders. These include, inter alia, the establishment of a framework of administrative offences for non-compliance with the obligations laid down in the MiCA Regulation and the corresponding national implementation legislation, as well as mandatory access to alternative dispute resolution organisations.

Until the approval and coming into force of the Draft Law, the regulatory framework will continue to rely solely on the Portuguese AML/CFT Law (Law no. 83/2017), and two regulations issued by the Bank of Portugal (Notice no. 3/2021, regulating the rules on the registration process with the Bank of Portugal applicable to entities carrying out activities with virtual assets, and Notice no. 1/2023 establishing the necessary measures to ensure compliance with AML/CFT obligations within the scope of entities that carry out activities with virtual assets).

3. Does any existing or proposed national law impose requirements regarding stablecoin?

There are no specific national guidelines or legislation governing so-called stablecoins.

4. What rules apply to the promotion of crypto-assets?

The Portuguese legislator has not issued any specific legislation imposing restrictions on marketing activities related to crypto-assets, and the proposed legislation implementing the MiCA Regulation does not introduce any new provisions in this regard.

It should be noted, however, that the regulators have been issuing warnings to both investors and entities engaging in relevant activities pertaining to crypto-assets: specifically, the CMVM has issued a statement regarding the offer of tokens. In accordance with that public statement, for tokens which are not deemed securities, the relevant advertisement documents should not use terms that could be confused with those that are normally employed in public offers, such as "investor", "investment", "secondary market" and "admitted to trading".

More broadly, when targeting Portuguese consumers, mandatory Portuguese civil law, consumer protection law and general principles applicable to advertising, as provided for in the Advertisement Code, shall apply. In this sense, all marketing activities shall be transmitted in the Portuguese language, be truthful and not misleading, and clearly identified as such. Additional requirements on advertising will also be applicable if the relevant entities perform marketing activities to promote financial services or products, such as payment services.

"Advertising activities" are defined in the Advertisement Code as the set of operations related to the diffusion of an advertising message to its addressees, as well as the legal and technical relationships arising therefrom between advertisers, professionals, advertising agencies and entities exploiting advertising media or performing the referred operations. These operations include, in particular, the conception, creation, production, planning and distribution of advertising. This definition includes, for example, the use of influencers.

5. What anti-money laundering requirements apply to crypto-asset activities or custody?

Under AML/CFT regulations, specifically Law no. 83/2017 and Notice no. 3/2021 from the Bank of Portugal, all entities involved with relevant crypto-asset activities within the Portuguese territory must register with the Bank of Portugal. For the purposes of Law no. 83/2017, the relevant crypto-asset-related activities are:

- crypto-to-fiat exchange services;
- crypto-to-crypto exchange services;
- virtual asset transfer services;
- custodian and management activities.

Portuguese Law includes crypto-to-crypto exchange service providers in the scope of the transposition of 5MLD. Hence, secondary markets that allow crypto-assets to be exchanged for other crypto-assets may be under the scope of Law no. 83/2017 and the Bank of Portugal's registration process.

Along with that registration, all entities under the scope of Law no. 83/2017 must abide by the general framework of anti-money laundering for non-financial institutions. That entails compliance with a substantial network of duties whenever the amount surpasses 1,000.00 euros, of which the following are highlighted:



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- preparation and implementation of policies, procedures and control mechanisms, including training, that are appropriate for managing the money laundering risks to which they are likely to be exposed;
- identifying customers and business owners (i.e., implementing know-your-customer (KYC) procedures);
- collecting and keeping information on the business relationship with users and clients (i.e., a customer due diligence obligation);
- monitoring and scrutinising transactions on the basis of risk assessment;
- reporting and cooperating with all competent authorities when encountering any suspicious transaction.

All these requirements involve a significant compliance effort from regulated entities, especially when considering the inherent difficulties associated with obtaining full disclosure from crypto-assets activities.

Nevertheless, Draft Law No. 31/XVII/1, currently under parliamentary scrutiny, seeks to update Law No. 83/2017 to align the national AML/CFT regime with the Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto assets (TRF).

The Draft Law extends AML/CFT obligations to crypto-asset transfers, requiring payment service providers and CASPs to ensure that information on the originator and the beneficiary accompanies each transaction. The proposal brings CASPs within the scope of obliged entities and confirms the Bank of Portugal as the competent authority for AML/CFT supervision (acting in coordination with the CMVM where applicable).

Until this draft law enters into force, the existing AML/CFT regime remains applicable, under which the Bank of Portugal retains supervisory authority.

6. Do any rules restrict banks from holding or dealing in crypto-assets or their derivatives?

Banks are subject to detailed and strict legislation on holdings and dealings, particularly under the Basel III framework and the CRR and CRD. There are no national specific guidelines or legislation covering crypto holding and dealing by banks.

7. Do any current or proposed rules apply to decentralised finance (DeFi) arrangements?

Although there are no national specific guidelines or legislation for decentralised finance agreements, stakeholders should consider with due care the possibility of their operations falling under the scope of other financial services regulations.

As for MiCA, DeFi is apparently out of scope if the services are provided without the intervention of intermediaries. Given the untested nature of this new regulation, it is as yet unclear how that provision will be interpreted and enforced, specifically regarding the concept of intermediary and the degree of intervention that could trigger regulatory action.

8. Have there been any significant regulatory or criminal enforcement proceedings involving rules concerning crypto-assets?

There have not been landmark regulatory or criminal proceedings in Portugal involving crypto-assets. However, there is a growing number of cases on issues such as blocking of funds and similar litigation concerning the governance of crypto platforms and exchanges, so it is possible that this will change in the near future.

This country profile was kindly provided by [Ana Sofia Batista](#), [Isabel Pinheiro Torres](#), [Diogo Pereira Duarte](#) and [Maria Eduarda Andrade of Abreu Advogados](#).

Complaints Procedure

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