

Submission Date

02/10/2024

ESMA_QA_2295

Status: Answer Published

Additional Information

Level 1 Regulation

MiCA

Topic

Crypto-Asset Service Provider (CASP)

Subject Matter

Status of entities providing crypto-asset services as part of the grandfathering regime

Question

Are Crypto-asset service providers that provided their services in accordance with applicable law before 30 December 2024 and which are authorised to continue to do so under the law of a Member State in accordance with Article 143 of MiCA, considered to be crypto-asset service providers under the terms of MICA during the transitional period until they are authorised?

ESMA Answer

02-10-2024

Original language

No. Crypto-asset service providers that provided their services in accordance with applicable law before 30 December 2024 can continue to do so until the end of the applicable transition period (and not later than 1 July 2026), or until they are granted an authorisation, in accordance with MiCA.

Crypto-asset service providers authorised to perform their activities during the transitional period are not authorised within the meaning of this Article 3(1)(15) of MiCA and therefore do not constitute “crypto-asset service providers” under the terms of MiCA. The requirements of MiCA are therefore not applicable to them until they are granted an authorisation pursuant to Article 63.

As a consequence of the foregoing, when, under MiCA, an authorised crypto-asset service provider is subject to requirements in relation to another entity providing crypto-asset services' compliance with requirements for crypto-asset service providers, the authorised crypto-asset service provider may consider that these requirements are deemed to be complied with by an entity providing crypto-asset services under the transitional regime until such entity ceases to benefit from the applicable transitional period.

An entity providing crypto-asset services under the transitional regime may therefore continue to provide its services to an authorised crypto-asset services provider, until the end of the applicable transitional period. Inversely, an authorised crypto-asset services provider can have recourse to such entity under the transitional regime until the end of the applicable transitional period, including in the context of Article 75(9) of MiCA.

In the absence of a transitional period under Regulation (EU) 2023/1113, this clarification should not be read as exempting any entities providing crypto-asset services from fulfilling their obligations under that Regulation.

As a reminder, please see [Q&A 2086](#) in relation to the provision of cross-border services during the transitional period.