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Additional Information

Level 1 Regulation
MiCA

Topic
Crypto-Asset Service Provider (CASP)

Subject Matter
Pre-funding clients' orders with clients' crypto-assets

Question
Does the Markets in Crypto-Assets Regulation (MiCA) allows crypto-asset service providers (CASPs) to use clients' crypto-assets for pre-funding client orders?

ESMA Answer

09-07-2025

Original language

Pre-funding client transactions using clients’ crypto-assets qualifies as the sub-custody of client’s crypto-assets. As such, CASPs pre-funding clients’ transactions with clients’ crypto-assets must adhere to the requirements outlined in Articles 70 (Safekeeping of clients’ crypto-assets and funds) and 75 (Providing custody and administration of crypto-assets on behalf of clients) of MiCA. In accordance with Article 75(9) of MiCA, the pre-funding of clients’ transactions using clients’ crypto-assets may thus only be done where the third party holding the clients’ crypto-assets is a CASP authorised in accordance with Article 59 of MiCA and clients have been informed accordingly. Consequently, the pre-funding of client transactions using client’s crypto-assets is only permissible under MiCA where the third-party holding the client’s crypto-assets is authorised to provide the crypto-asset service of custody and administration of crypto-assets on behalf of clients in accordance with MiCA.

Where clients’ crypto-assets are sent to a third party for the settlement of a transaction that has already been executed for the specific purpose of settling a specific order, this should not be seen as sub-custody.