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Additional Information

Level 1 Regulation
MiCA

Topic
Crypto-Asset Service Provider (CASP)

Additional Legal Reference
Article 78(5)

Subject Matter
Scope of the term “trading platform for crypto-assets” in Article 78(5) of MiCA (executing client orders outside of a trading platform)

Question
Where a crypto-asset service provider (CASP) provides execution of orders for crypto-assets on behalf of clients (as defined in Article 3(1)(21) of MiCA), does the obligation under Article 78(5) of MiCA for the CASP to inform their clients about the possibility that their orders “might be executed outside a trading platform” and to obtain “the prior express consent of their clients before proceeding to execute their orders outside a trading platform” apply whenever a CASP’s order execution policy provides for the possibility that client orders might be

executed outside of CASPs that are authorized in accordance with Article 59 of MiCA to provide the service of ‘operation of a trading platform for crypto-assets’ as defined in Article 3(1)(18) of MiCA?

ESMA Answer

08-12-2025

Original language

Yes. The term “trading platform” used in Article 78(5) of MiCA should be interpreted as exclusively referring to entities that are authorized in accordance with Article 59 of MiCA to provide the service of ‘operation of a trading platform for crypto-assets’ as defined in Article 3(1)(18) of MiCA. This interpretation is in line with the purpose of Article 78(5) of MiCA and aims to ensure that clients of CASPs are informed about, and provide their express consent to, the execution of their orders within arrangements that may be subject to lesser regulatory scrutiny or offer a lower level of protection compared to trading platforms authorised under MiCA.

Whenever the execution policy of an entity authorized in accordance with Article 59 of MiCA to provide the service of ‘execution of order for crypto-assets on behalf of clients’ as defined in Article 3(1)(21) of MiCA provides for the possibility that client orders might be executed outside of CASPs authorized in accordance with Article 59 of MiCA to provide the service of ‘operation of a trading platform for crypto-assets’ as defined in Article 3(1)(18) of MiCA (e.g., OTC venues, third-country trading platforms, decentralized exchanges), such a CASP “*shall inform their clients about that possibility and shall obtain the prior express consent of their clients before proceeding to execute their orders outside a trading platform, either in the form of a general agreement or with respect to individual transactions*”.