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Additional Information

Level 1 Regulation
MiCA

Topic
Crypto-Asset Service Provider (CASP)

Subject Matter
Perimeter of advice under MiCA compared to MiFID II

Question
How should the perimeter of advice on crypto-assets under MiCA be understood, and to what extent is it comparable to the notion of investment advice under MiFID II?

In particular, do introductory services – where a person recommends a crypto-asset service provider and/or a crypto-asset service to a client, without recommending specific transactions on crypto-assets – fall within the scope of advice on crypto-assets under MiCA?

ESMA Answer

18-06-2026

Original language

The perimeter of advice on crypto-assets under MiCA should be regarded as broader than the perimeter of advice under MiFID II. This is because the definition of ‘providing advice on crypto-assets’ under MiCA refers to offering, giving or agreeing to give personalised recommendations in respect of i) one or more transactions relating to crypto-assets or ii) the use of crypto-asset services.

As such, the following tests should apply:

- Does the service that is being offered constitute a recommendation?
- Is the recommendation in relation to one or more transactions relating to crypto-assets OR the use of crypto-asset services? Is the recommendation presented as suitable or based on a consideration of the person’s circumstances? Is the recommendation issued otherwise than exclusively to the public?
- Is the recommendation made to a person in his capacity as an investor or potential investor or as an agent for an investor or potential investor?

On this basis, introductory services consisting of the recommendation of a crypto-asset service to a potential investor (with or without recommending a specific crypto-asset service provider), even if not made in relation to specific transactions in crypto-assets, may be regarded as advice on crypto-assets for the purpose of MiCA, depending on the circumstances surrounding the recommendation.

To the contrary, providing solely a reference to a CASP (without further indications) equally accessible to all potential investors should not constitute a recommendation and should therefore not be regarded as advice on crypto-assets for the purpose of MiCA.