

Box 2.6

MARKETS IN CRYPTO-ASSETS EUROPEAN UNION REGULATION (MiCAR): REGULATION OF STABLECOINS

The European Union was the first major jurisdiction to introduce a comprehensive regulatory framework for crypto-asset activities through the Markets in Crypto-Assets (MiCA) Regulation or MiCAR. This regulation is in response to the potential expansion of the crypto-asset sector and its interconnection with the traditional financial sector. Its objective is to ensure financial stability and consumer protection in the crypto-asset market. MiCAR, is applicable, in general, from the end of 2024 (with a transitional period of 18 months), but the titles regulating the issuance of so-called “stablecoins”, which is under the supervision of the Banco de España, are applicable from 30 June 2024.

MiCAR regulates two types of stablecoins: a) asset-referenced tokens (ARTs), whose value remains stable in relation to other assets or a combination of assets; and b) electronic money tokens (EMTs), whose value remains stable in relation to an official currency.

Despite their name, stablecoins are not always stable, and this instability can spread to the financial system, as demonstrated by the cases of the FTX platform and Silicon Valley Bank. Therefore, MiCAR introduces specific requirements for the issuance, public offering and admission to trading of these coins.

Before issuance, issuers must publish a white paper detailing the main characteristics of the issuance, as well as the issuer's rights and obligations towards holders. After issuance, they must invest the funds received in secure, low-risk assets, have adequate own funds and comply with operating, organisational and governance rules.

Despite its many benefits, the implementation of MiCAR poses several challenges to issuers, supervisors and regulators, some of the most significant of which are mentioned below.

One of the main challenges is the delimitation of the various types of crypto-assets and their classification,

since MiCAR does not apply to crypto-assets considered to be financial instruments or other already regulated financial products, such as deposits, or to unique and non-fungible crypto-assets.

Also, the issuance and provision of crypto-asset services is a global phenomenon, which adds complexity to their supervision and regulation. International business models and the decentralised nature of many crypto-assets make it difficult to locate the provision of the service precisely and to identify the institutions responsible. This poses a significant challenge for regulators, who must achieve extensive, effective coordination at the international level to ensure effective and consistent supervision.

The Banco de España, as the competent authority under MiCAR for exercising supervisory, inspection and sanctioning functions in relation to ART and EMT issuers, must coordinate with other competent national and European authorities for the supervision of generally global business models.

Furthermore, prudential supervisors not only supervise a large proportion of issuers, but must also be particularly attentive to the connections between the banking sector and crypto finance; and especially to the systemic risk arising from the potential contagion that could occur as a result of mass withdrawals of bank deposits held by crypto companies as an investment in low-risk assets of funds received.

In summary, although MiCAR represents a significant step forward in the regulation of crypto-assets, its implementation is not without challenges, such as the delimitation of the types of crypto-assets, the need for effective international coordination and the possible links to the banking system. Addressing these challenges is essential to ensuring that the regulation meets its objectives of financial stability and consumer protection in a global and constantly evolving market.