

# Application of the European Regulation on the Crypto-assets Market in Portugal

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## **1. Context and regulatory framework**

The MiCA Regulation (Regulation (EU) 2023/114 of the European Parliament and of the Council of 31 May 2023) entered fully into force on 30 December 2024.

Under the terms of the Regulation, the provision of services with virtual assets is now subject to authorisation by the Supervisory Authority designated by the Member State.

Nevertheless, the Regulation provides for the possibility for Member States to grant a transitional period to entities providing crypto-asset services that are already authorized on the basis of the national regulatory framework in force.

Member States may also decide not to apply this transitional regime, or even to reduce it, in cases where they consider their national regulatory framework applicable until the entry into force of the MiCA Regulation to be less stringent than that of this Regulation.

The regulations regarding: (1) the Supervisory Authority competent to decide on applications for authorisation to provide services with crypto-assets; and (2) the transitional regime to be applied to entities authorised and registered under the applicable legislation prior to the MiCA Regulation, are to be defined by means of the national diploma implementing the Regulation, which has not yet been published.

## **2. Banco de Portugal Notice on the application of the MiCA Regulation**

Considering the legislative omission and the entry into force of the Regulation, the Bank of Portugal clarified on 3 January 2025, through the Bank of Portugal Notice on the application of the MiCA Regulation, that: (1) entities that carry out activities with virtual assets that, on 30 December 2024, were registered with the Bank of Portugal under article 112-A of Law 83/2017 of 18 August, in its current wording, and with the start of activity communicated and registered in accordance with the terms of Article 6(7) of Bank of Portugal Notice 3/2021, of 23 April 2021, may continue to carry out activities with virtual assets for which they are qualified under the terms of Law 3/2021, in its current wording; and (2) in absence of a national law implementing the MiCA Regulation, the Bank of Portugal does not have the power to decide on applications for authorisation

to provide services with crypto-assets, as the competent Supervisory Authority in Portugal has not yet been appointed;

### **3. Questions and Answers from the Portuguese Securities Market Commission on the entry into force of the MiCA Regulation**

On 30 December 2024, the CMVM published a Q&A on the entry into force of the MiCA Regulation, clarifying the regime applicable to investor protection and the handling of customer complaints, as well as providing an overview of the obligations applicable to crypto-asset service providers.

The CMVM also clarifies that the provision of services with virtual assets on a cross-border basis is permitted, as long as this intention is communicated to the Competent Authority of the Home Member State (understood, under the terms of the Regulation, as the Member State in which the entity has its registered office).

### **4. Conclusions and next steps**

With the MiCA Regulation entering into force without any national implementing legislation having been approved, there is now an environment of legal uncertainty for service providers and investors. National legislation is expected to be approved in the near future, ensuring that market players comply with European regulations (which already include Delegated Regulations, Regulatory Technical Standards and Guidelines from the European Banking Authority and the European Securities and Markets Authority).

Abreu Advogados features a Banking and Finance team dedicated and prepared to advise Cryptoasset Service Providers and Investors, in Portugal or abroad, regarding the planning and execution of all actions necessary to comply with the current legal framework.



**Thinking about tomorrow? Let's talk today.**

**Diogo Pereira Duarte** – Partner  
[diogo.p.duarte@abreuadvogados.com](mailto:diogo.p.duarte@abreuadvogados.com)

**João Diogo Barbosa** – Associate Lawyer  
[joao.d.barbosa@abreuadvogados.com](mailto:joao.d.barbosa@abreuadvogados.com)

**Diogo Matos Horta** – Trainee Lawyer  
[diogo.m.horta@abreuadvogados.com](mailto:diogo.m.horta@abreuadvogados.com)