

INATBA's Initial Response to European Commission's MiCA Regulation

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International Association for
Trusted Blockchain Applications

INATBA Issues Initial Response to European Commission's MiCA Regulation



The European Commission (EC) today published proposed regulations for crypto assets in the European Economic Area (EEA). The proposed regulation, known as the Markets in Crypto-assets (MiCA), is part of a wide range of policy work which aims to position Europe at the forefront of blockchain innovation and uptake.

MiCA sets out to establish legal certainty, support innovation, increase consumer and investor protection, ensure financial stability and support innovation across a broad definition of the crypto-assets, crypto-asset providers and crypto-assets services market.

INATBA is supportive of strategies which support the growth of distributed ledger technology (DLT) and blockchain applications for the benefit of society. We believe that establishing regulatory and legal certainty is an essential and much needed next stage of development for applications built on DLT and blockchain technologies. Without such necessary measures, INATBA believes that it will be hard for the industry to achieve its objectives of high transaction volumes and wide geographical adoption.

MiCA is detailed, comprehensive and broad in its coverage. The proposed regulation leaves few, if any, areas of the market untouched. It permits very few exceptions and is intended to be highly prescriptive and directional for both industry participants and Member States. Moreover, because MiCA is both far-reaching and exceptionally detailed, it places an urgent requirement on all market participants to invest significant time to understand the regulation and the ways in which it interacts with other related Member State and EU laws and regulations. INATBA anticipates that this will create significant disruption as all ecosystem participants scramble to first understand, then process and operationalise, this vast interwoven set of regulatory and compliance proposals.



Upon an initial review of the proposed regulation, INATBA presents below a small selection of reflections and opinions from our members. The views presented are diverse, in keeping with INATBA's membership, which is comprised of micro, small, medium, and large enterprises as well as non-profit organizations—many of which are based in Europe, and all of which are actively engaged in developing and promoting blockchain and distributed ledger technologies both in Europe and around the world:

- Establishing regulatory clarity and legal certainty is a positive step forward. The majority of INATBA members who responded to our preliminary call for comments endorse the core objectives of the regulation and welcome a harmonised approach that promotes fair competition and the opening up of a large and attractive market for innovative DLT & blockchain market participants across the European Economic Area.
- While the proposed regulation is well conceived, some members express concern that it could, in its present form, overburden a young and innovative industry with costly and complex compliance and legal requirements that are disproportionate to the policy objectives it pursues. They hope that further detailed reviews will establish a supportive series of improvements and refinements to ensure that MiCA does not stifle innovation within the EU and/or cause the emigration of currently EU-based innovation to non-EU jurisdictions.
- In some cases, there are questions as to whether the proposed regulation adheres to the principle of technical neutrality and a level playing field, which are both stated objectives of the regulation. In particular, permissionless blockchain platforms, where the level of technological innovation has arguably been the most prolific, appears to be absent from the proposed regulation. Certain members fear that the impact of such an omission on the activities of Europe's large start-up community could be significant.
- The proposed regulation may, in the view of some members, appear to prefer credit institutions, investment firms and payment institutions over Crypto Asset Service Providers (CASP). These members request greater clarity, for example, about the process that may require CASPs to migrate from existing national frameworks and apply for new licences whilst other market participants may be exempt from the same requirements.



- Certain analyses suggest that, under the proposed regulation, novel and early-stage developing markets such as Decentralised Finance (DeFi) would likely no longer be accessible to Europe and her citizens. Europe's ability to attract talent, foster innovation, maintain a start-up ecosystem and develop competitive advantages for the enjoyment of EU Member States and citizens could profoundly suffer as a result. Likewise, other nascent technologies, innovations, applications and functionalities which could improve the lives of European citizens and contribute to the furtherance of democratic digital governance initiatives could be rendered inaccessible to European citizens and Member States. The INATBA members concerned about these possibilities would reiterate the need for a sound framework that provides technologists and entrepreneurs the manoeuvring room necessary to conduct experimental innovation and keep Europe on the leading edge.

In light of these diverse preliminary views, INATBA calls upon the European Commission, the European Parliament and all interlocutors involved in the process—including adjacent industries and civil society organisations—to become actively engaged, work together and continue to develop this proposed legislation further. We look forward to a collaboration which results in a regulatory framework that actively supports the growth of DLT & blockchain to the benefit of all citizens and societies. We seek to reduce frictions and encourage innovation through the adoption of proportional regulations. MiCA should not only create legal and operational certainty but also effectuate all of the EU's important regulatory and policy prerogatives for consumers, governments, industry, and civil society alike in a balanced and effective manner.

Through its Finance Working Group, INATBA is coordinating a detailed review of MiCA. These efforts will present INATBA members and the broader ecosystem with a platform for engagement with the European Commission, European Parliament and Member State Governments to present their views and opinions.

MiCA represents a monumental moment of change for the DLT & blockchain industry globally. INATBA stands ready to engage with all interested parties and will actively contribute robust and well-informed evidence on behalf of our members.



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