

## REGULATORY INTELLIGENCE

**COUNTRY UPDATE-Italy: Crypto-asset regulation**

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After an outline of EU legislation, this article provides an overview of crypto-asset regulation in Italy by [Fabrizio Dotti](#) and [Marco landelli](#) of law firm [K&L Gates - Studio Legale Associato](#).

**Principal EU legislation**[Markets in Crypto-Assets Regulation \(EU\) 2023/1114 \(MiCAR\)](#)

MiCAR establishes a harmonized EU-wide framework for issuing, dealing or intermediating crypto-assets. MiCAR treats stablecoins differently from other crypto-assets and divides them into "asset-referenced tokens" and "electronic money tokens". Stablecoins that pass threshold conditions will be classified as "significant" by the European Banking Authority (EBA).

MiCAR's level 1 rules on stablecoins entered into force on June 30, 2024 while the remaining provisions became applicable on December 30, 2024.

[Revised Transfer of Funds Regulation \(EU\) 2023/1113 \(TFR\)](#)

The TFR has also been applicable from December 30, 2024 to coincide with the majority of MiCAR rules and extends the "travel rule" applicable in traditional finance to crypto-assets. This means information on the source of an asset and its beneficial ownership will have to "travel" with a transaction and be stored on both sides of a transfer.

[Fifth Money Laundering Directive EU 2018/843 \(5MLD\)](#)

This extended the Fourth Money Laundering Directive regime to "providers engaged in exchange services between virtual and fiat currencies" and to "custodian wallet providers".

On April 24, 2024, the European Parliament adopted a package of AML measures, including an [AML Regulation \(AMLR\)](#). When it takes effect, AMLR will extend AML and due diligence requirements to most of the crypto sector, not just the entities covered by 5MLD.

[Revised Markets in Financial Instruments Directive EU 2014/65 \(MiFID 2\)](#)

Some crypto-assets qualify as "financial instruments" under MiFID 2 [article 4\(1\) point 15](#) and the associated list in [section C of annex 1](#).

[Second Electronic Money Directive EU 2009/110 \(EMD2\)](#)

The Commission has acknowledged that some single fiat currency-backed stablecoins can be "electronic money" as defined by EMD2 [article 2\(2\)](#) so there can be overlap with MiCAR. EMD2 is being replaced by a new Payment Services Directive (PSD3), the negotiations of which are still ongoing.

**Crypto-asset regulation in Italy****1. Which body or bodies regulate crypto-assets and related activities?**

Pursuant to the Italian Legislative Decree no. 129/2024 on Crypto-Asset Markets, approved by the Italian government on June 24, 2024 and published on September 13, 2024 in the Official Gazette (the "Italian Crypto-Asset Markets Decree" or "Italian CAM Decree"), the Bank of Italy (i.e., the authority supervising the banking sector) and Consob (i.e., the securities and markets authority) have been designated as the competent authorities to regulate — in accordance with the guidance of the Italian government — and exercise the authorising, supervisory, investigative and sanctioning powers.

The Italian CAM Decree was aimed at bringing national legislation in line with the provisions of the newly enacted MiCAR (Markets in Crypto-Assets Regulation), which represented a turning point in the regulation of crypto-assets markets within the European Union.

In addition to the above, pursuant to the Italian Legislative Decree no. 231 of 2007 ("Italian AML Law") and to the Decree of the Ministry for Economy and Finance of January 13, 2022, providers of services relating to cryptocurrencies and providers of digital wallet services



must also enrol a specific Italian register (the "OAM Register"), held by an authority called *Organismo per la gestione degli elenchi degli agenti in attività finanziaria e dei mediatori creditizi* ("OAM").

Moreover, the European Securities and Markets Authority ("ESMA"), in close cooperation with the European Banking Authority ("EBA"), remains mandated to issue guidelines and draft Regulatory Technical Standards ("RTS") specifying the criteria and conditions for the qualification of crypto-assets as financial instruments.

Lastly, the newly formed Authority for Anti-Money Laundering and Countering the Financing of Terrorism ("AMLA"), based in Frankfurt and operational as of July 1, 2025, will play a crucial role in fighting money laundering also in the crypto sector.

## **2. Does any existing or proposed national law regulate crypto-asset issuers or service providers?**

The Italian CAM Decree regulates the matter. As said, such decree implemented the rules and principles established by the MiCAR, including with respect to the authorization to carry out activities involving crypto assets falling in the perimeter of MiCAR.

In addition, to facilitate a smooth transition to the new licensing regime and avoid service disruptions or negative market impacts, Law Decree No. 95/2025 ("Law Decree no. 95"), published in the Official Gazette on July 1, 2025 and converted into Law No. 118/2025 of August 8, 2025, introduced a transitional regime for Crypto-Asset Service Providers ("CASPs") which have enrolled the OAM Register as of December 27, 2024. Such CASPs are temporarily allowed to continue operating until June 30, 2026, provided that they submit a CASP license application by December 30, 2025. CASPs incorporated as corporates which have enrolled the OAM Register as of the above date are allowed to carry out their activities without applying for CASP license in Italy, in case they are part of a group including at least one company that has applied (in Italy or in another EU country) for a license, provided that such license is granted by June 30, 2026.

## **3. Does any existing or proposed national law impose requirements regarding stablecoin?**

Stablecoins are mainly regulated both under MiCAR and the Italian CAM Decree. Please note that MiCAR is already applicable to stablecoins since June 30, 2024.

With respect to asset-referenced tokens ("ARTs"), the Italian CAM Decree states that the Bank of Italy, in agreement with Consob, is allowed to authorize banks, SIMs (i.e., Italian licensed securities brokers), electronic money institutions and payment institutions — which have set up for the provision of their services a separate dedicated estate pursuant to, respectively, Article 114-quinquies, paragraph 4, and Article 114-novies, paragraph 4, of the Italian Consolidated Banking Act — to issue, offer to the public and admit to trading ARTs, approving the so-called "white paper".

In case of a credit institution, the procedure implies a mere notification to be sent to the Bank of Italy at least 90 days before the issuance of an ART. Once it has verified the completeness of the information, the Bank of Italy will transmit the documentation to the European Central Bank ("ECB"), which will issue a formal opinion. The white paper documentation will also be sent to ESMA.

In case of a non-financial entity, the process requires an explicit authorization to be granted by the Bank of Italy, which, in addition to verifying the completeness of the information, must also assess the existence of certain requirements. Further opinion will be issued by the EBA, ESMA and ECB and the final decision will be adopted by the Bank of Italy, in agreement with Consob.

With respect to the electronic money tokens ("EMTs") regulated in Chapter III, Title II of the Italian CAM Decree, electronic money institutions or credit institution are required to notify the Bank of Italy of their intention to issue an EMT at least 40 days prior to the issuance. A white paper document shall also be submitted by the issuer in the context of the process.

It has to be highlighted that, on January 17, 2025, ESMA published a [statement](#) addressed to crypto-asset service providers in relation to ARTs and EMTs, requiring the cessation of trading in stablecoins whose issuers have not been authorized under MiCAR. The statement also outlined methods to ensure adequate reimbursement mechanisms for clients holding such crypto-assets.

## **4. What rules apply to the promotion of crypto-assets?**

After the publication in the Official Gazette of the Italian CAM Decree, the new legislation entered into force and the rules set out therein became applicable to any crypto-asset operator in Italy. The Italian CAM Decree provides — in order for an entity to be enabled to operate — for a procedure based on a mere notification to the competent authorities or a procedure that entails the need of specific authorization, mainly depending on the type of activity and on the type of entity involved.

MiCAR has been fully applicable in Italy since December 30, 2024, save for the rules concerning asset-referenced tokens (ARTs - title III of MiCAR) and electronic money tokens (EMTs - title IV of MiCAR) that entered into force on June 30, 2024.

In Italy, the Bank of Italy and Consob are overseeing its national implementation, with particular focus on disclosure obligations and the structure and content of white papers to be made available to the public.

## **5. What anti-money laundering requirements apply to crypto-asset activities or custody?**

Entities qualifying as providers of services relating to the use of cryptocurrencies and providers of digital wallet services are subject to obligations provided for by the Italian AML Law.

The Law Decree no. 95, reflecting the requests made by the Bank of Italy, introduced for EU-based CASPs, operating in Italy without a branch, the obligation to establish a Central Contact Point ("CCP") in Italy, to manage the anti-money laundering and counter-terrorism



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obligations applicable to them. This requirement will be implemented subject to the adoption of technical rules of regulation by the European Commission, currently under development.

In addition to mandatory registration with the OAM Register, carrying out such activities in Italy triggers the application of the obligations provided by the Italian AML Law in relation to: (i) customer due diligence; (ii) analysis of customer transactions and reporting of suspicious transactions to the Italian AML authority (the specific department of Bank of Italy called "UIF"); (iii) periodical reports to UIF; (iv) internal organizational structures and procedures; (v) data storage and archiving.

In addition to the above, the new [Regulation \(EU\) 2023/1113](#) ("TFR") on information accompanying transfers of funds and certain crypto-assets (TFRs) introduced a specific, harmonized regulatory framework for crypto-asset markets. The TFR essentially introduces an obligation on CASPs to gather and make accessible to the supervisory authorities information on the transferors and transferees of crypto-assets. Regulation (EU) 2023/1113 has been implemented in Italy with Legislative Decree No. 204 of 27 December 2024, which amended the Italian AML Law. This new piece of legislation, published in the Official Gazette No. 303 of 28 December 2024, aligns the national legal framework with the provisions of the EU regulation concerning the information accompanying transfers of funds and certain crypto-assets, commonly referred to as the "travel rule".

Moreover, it has to be mentioned that the [EU Regulation 2024/1624](#) (the Single Rulebook Regulation), recently enacted within the AML EU Package, has also introduced further due diligence obligations whose application has been extended to the CASPs in the case of, inter alia, cross-border correspondence relationships involving the provision of services of crypto-assets with any subject not established in the European Union and providing similar services, including transfers of crypto-assets.

#### **6. Do any rules restrict banks from holding or dealing in crypto-assets or their derivatives?**

In addition to the aforementioned regulations, where relevant, the main body of the laws set out by the Consolidated Law on Banking (Legislative decree No. 385/1993 - "TUB") and Consolidated Law on Finance (Legislative decree No. 58/1998 - "TUF") may still apply to banks and other financial institutions operating in the crypto-assets sector (e.g., the issuers of EMTs will still be subject to the main provisions on the issuance of money such as articles 114-quater, 114-quinquies and subsequent of the Consolidated Law on Banking).

#### **7. Do any current or proposed rules apply to decentralised finance (DeFi) arrangements?**

MiCAR addresses the matter of decentralized finance in Recital 22 as follows: "Regulation should apply to natural and legal persons and certain other undertakings and to the crypto-asset services and activities performed, provided or controlled, directly or indirectly, by them, including when part of such activities or services is performed in a decentralized manner".

Differently, when it comes to fully decentralized finance, MiCAR provides that: "Where crypto-asset services are provided in a fully decentralized manner without any intermediary, they should not fall within the scope of this Regulation". In addition, "where crypto-assets have no identifiable issuer, they should not fall within the scope of Title II, III or IV of this Regulation".

Consistently with MiCAR, the Italian CAM Decree kept decentralized finance phenomena out of its perimeter of application.

#### **8. Have there been any significant regulatory or criminal enforcement proceedings involving rules concerning crypto-assets?**

The judges who have ruled in recent years in Italy — lacking any ad hoc regulation — have usually applied the general principles set out by the Consolidated Law on Banking and Consolidated Law on Finance and by the Italian AML Law to the crypto cases brought to their attention.

Among these, the Court of Milan (decision no. 5116/2023 — second criminal section) in 2023 sanctioned and punished a director for allegedly carrying out unauthorized financial activities, as a consequence of issuing virtual currency, thus collecting funds amounting to approximately half a million euros.

One year later, the Court of Appeal of Milan (Decision No. 1879/2024) reversed the above ruling and held that the conduct did not constitute unlawful issuance of electronic money nor unauthorized performance of financing activities. The Court of Appeal examined in detail the legal distinctions between virtual currency and electronic money and concluded that the offence mentioned above was not applicable, as at the time of the facts, the issuance of this type of crypto-asset could not be legally classified as issuance of electronic money.

Another relevant ruling is the recent judgment (n. 1760/2025) by the Italian Supreme Court ( *Corte di Cassazione*), which held that, in the context of a criminal seizure aimed at securing unpaid tax liabilities, Bitcoin cannot be regarded as an equivalent to legal tender. According to the Court, the extreme volatility of the market value of Bitcoin prevents it from qualifying as a stable means of payment or reserve of value.

[Complaints Procedure](#)

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