ONLINE (ZOOM)

15 SEPTEMBER 2026

11:00 - 12:30 CEST

Markets in Crypto-Assets Regulation:

THE STATUS QUO, REGULATORY GAPS AND THE ROAD TO MICA 2.0

BETTER FINANCE
The European Federation of Investors and Financial Services Users
Fédération Européenne des Epargnants et Usagers des Services Financiers

Co-funded by the European Union

Welcome & Introduction

Martin Molko, Senior
Research & Policy Officer,
BETTER FINANCE

Programme

11:00 AM

Welcome & Introduction

- **Martin Molko,** Senior Policy & Research Officer, BETTER FINANCE
- **Prof. Christos Gortsos,** President of the Academic Board of the European Banking Institute (EBI), Member of the Board of Appeal of the European Supervisory Authorities (ESAs)

11:10 AM

Expert Presentation | **MiCA White Papers: Who needs them, under what conditions, and what are the legal challenges arising?**

- **Prof. Filippo Annunziata**, Member of the Board of Appeal of the European Supervisory Authorities (ESAs), Professor of Financial Markets and Banking Legislation at Bocconi University
- **Thomaz B. de Arruda**, Lawyer

11:40 AM

Expert Presentation | **MiCA White Papers and Investor Protection: Does the Current Framework Deliver?**

- **Christiane Hölz,** Chair of Legal Committee, BETTER FINANCE; Managing Director, DSW

12:00 PM

Expert Presentation | **ESG Disclosures under MiCA: Public Website Compliance and Formal Alignment in the CASP Market**

- **Prof. Dr. Christoph Kreiterling,** Professor of Technology Impact Assessment and Sustainability Communication at Trier University of Applied Sciences, former Senior Adviser and MiCA team co-lead at BaFin

12:20 PM

Keynote Speech | **ESMA's Perspective on MiCA and the Way Forward**

- **William Marshall,** Policy Officer in the Market and Digital Innovation, ESMA

12:30 PM

Q&A & Policy Takeaways

- **Christiane Hölz,** Chair of Legal Committee, BETTER FINANCE; Managing Director, DSW

Introduction Remarks

Brief introduction to the MiCA consultation

Prof. Christos Gortsos, President of the Academic Board of the European Banking Institute (EBI), Member of the Board of Appeal of the European Supervisory Authorities (ESAs)

Expert Presentation

MiCA White Papers: Who needs them under what conditions and what are the legal challenges arising?

Prof. Filippo Annunziata,
Member of the Board of Appeal of the European Supervisory Authorities (ESAs), Professor of Financial Markets and Banking Legislation at Bocconi University

Thomaz B. de Arruda,
EU-Qualified Lawyer, Coordinator of the European Banking Institute (EBI)'s Young Researchers Group

Key Messages

- MiCAR does not differentiate between "Primary-" and "Secondary" Markets.
- If a crypto-asset is offered, it is not relevant
  - if the issuer is making the offer
  - or the offer is conducted by an offeror (your typical crypto-broker),
  - a white paper must be drawn-up, notified and published before this offer can take place, as the transitional period does not apply to offerors.
- The only determining factor if an offer is taking place is the question if sufficient information is given. The "style" of the information (promoting/advertising) is meaningless for this definition.
- If a crypto-asset was admitted to trading prior to 30 December 2024, the trading platform benefits from the transitional period.
- If a crypto-asset is admitted to trading after 30 December 2024, a white paper must be drawn-up, notified and published before that asset can be admitted to trading.

MICAR WHITE PAPERS

WHO NEEDS THEM, UNDER WHAT CONDITIONS, AND WHAT LEGAL CHALLENGES ARISE?

FILIPPO ANNUNZIATA &
THOMAZ B. DE ARRUDA

September 2026

OFFERORS & OFFERS TO THE PUBLIC

- Preamble: The following it true for crypto-assets other than EMTs and ARTs.
- "Offeror": "a natural or legal person, or other undertaking, or the issuer, who offers crypto-assets to the public" (Art. 3(1)(13))
- "Offer to the public": "offer to the public' means a communication to persons in any form, and by any means, presenting sufficient information on the terms of the offer and the crypto-assets to be offered so as to enable prospective holders to decide whether to purchase those crypto-assets;" (Art. 3(1)(12))
  - Offerors cannot "admit" or "list" crypto-assets to trading. They can only "offer" a crypto-asset.
  - An offer is an offer, no matter if it is made on the primary or secondary market. Therefore, subsequent disclosure-requirements such as white papers apply in every event an offer takes place
  - Art. 4(7): any subsequent offer is "deemed a separate offer to the public"
  - Prospectus Regulation Recital 14 carves out mere admission to trading. MiCAR does not.
  - Test is sufficiency of information, not "promotional language"

TRADING PLATFORMS

- "Operation of a trading platform": "operation of a trading platform for crypto-assets' means the management of one or more multilateral systems, which bring together or facilitate the bringing together of multiple third-party purchasing and selling interests in crypto-assets, in the system and in accordance with its rules, in a way that results in a contract, either by exchanging crypto-assets for funds or by the exchange of crypto-assets for other crypto-assets;" (Art. 3(1)(18))
- "Trading Platforms" can "list" or "admit" crypto-assets to trading.
- Despite the general belief, only a very small number of companies qualify as "Trading Platforms"
  - Below 7% of all CASPs in the ESMA Registry as of August 27th, 2026 qualify as Trading Platforms
- One prominent example: Coinbase does not qualify as a Trading Platform, but as an Offeror.

DIFFERENCES IN REGARDS TO SECURITIES MARKETS

- In contrast to traditional securities markets, the white paper ("prospectus") obligations for crypto-assets "other than", fall not on the issuer, but on the offeror or the trading platform (if the issuer acts as the offeror, the white paper requirement does of course apply)
- Contrast Titles III and IV: Arts. 16(1) and 48(1) place the obligation on an authorised issuer of ARTs and EMTs.

TRANSITIONAL MEASURES

- Arts. 4 to 15 do not apply to offers to the public that ended before 30 December 2024 (Art. 143(1)).
- For assets already admitted to trading by that date, Art. 143(2) leaves only two obligations in place:

  (i) The first is that marketing communications published after 30 December 2024 must comply with Arts. 7 and 9.

  (ii) The second is that "operators of trading platforms shall ensure by 31 December 2027 that a crypto-asset white paper, in the cases required by this Regulation, is drawn up, notified and published".
- The relief is temporal and specific. It does not touch a new offer made after 30 December 2024, whoever makes it.
- As stated, Article 143 (2, 3) does not touch "offerors", i. e. the majority of the market. For offerors, no transitional period applies.

TIMELINE

📅 Before 30 December 2024
🟠 **Crypto-assets already listed on trading platforms**
→ Eligible for transitional regime under Article 143(2, 3) MiCA
→ White paper may be published by 31 December 2027
⚠️ Applies only to trading platforms

❌ **Does not apply to other services**, including public offerings, promotions, or CASPs offering in the EU services such as: reception and transmission of orders; execution of orders for crypto-assets on behalf of clients; and exchange of crypto-assets for funds or other crypto-assets offerings.
Therefore, offerors needed white papers for all crypto-assets offered after 30 December 2024 immediately (also for the ones who have been offered before already)

📅 From 30 December 2024
🔴 All tokens listed for the first time
→ Must comply immediately with white paper obligations (Art. 4 and 5)
→ Offerors need white papers for all crypto-assets offered (first or “ongoing” (as this counts as a “new” offer)

📍 Real Case: Trump Token offered or listed after 30.12.2024
→ Requires white paper

📅 31 December 2027
🟢 End of the transitional period for pre-listed tokens
→ All crypto-assets, even if listed before 30 December 2024 on a trading platform, must be accompanied by a MiCA-compliant white paper if needed by the regulation.

30 December 2024
Title II in force

31 December 2027
Transitional period ends **(for trading platforms only)**

ARTICLES 4 AND 66(3)

- Art. 4 prohibits anyone from offering a crypto-asset to the public unless a white paper has been drawn up, notified and published.
- Art. 66(3) requires a service provider to give clients "hyperlinks to any crypto-asset white papers" for the assets it deals in.
- The first is a condition of lawfully making the offer. The second is a conduct duty in the provision of a service.
- Art. 66(3) assumes the white paper already exists. It never obliges anyone to produce one.

- Linking to someone else's white paper is therefore no defence to Art. 4. A platform can satisfy Art. 66(3) and still be an unauthorised offeror.

Q&A PROCESS

Legally Binding

Level 1 text

Question submitted to ESMA via the QA-tool relating to "**the practical application or implementation**" of provisions (Art. 16b(1) of ESMA Founding Reg.)

If "interpretation" of Union Law is required: question forwarded to the Commission (Art. 16b(5) ESMA Founding Reg.)

Commission responds to the Q&A, with a disclaimer that only the CJEU may interpret EU law

Practical effect: Q&As are taken by most actors as hard law

Q&As cannot be directly challenged before the CJEU, only indirectly (*FBF*). NCAs exposed to challenges before national courts?

Answer provided by the European Commission

Disclaimer: The answer clarifies provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.

ESMA Q&A 2404

- The Commission – not ESMA - stated that service providers "could be regarded as making an offer where they **promote or advertise**, as part of these services, an ART or EMT".
- The question concerned stablecoins only, but the reasoning is now being applied across Title II as well and the public statement from ESMA does not contain the more restrictive "promote or advertise" wording.
- The words "promote or advertise" appear nowhere in Art. 3(1)(12), which asks only about sufficiency of information.
- The SMSG made exactly this criticism in August 2026: the definition in Art. 3(1)(12) "does not set such restrictive criteria".
- If promotional tone is what triggers the regime, then whether a white paper is owed depends on how the wording was drafted.
- A platform could organise a subscription window, publish tokenomics and facilitate acquisition, yet claim to fall outside the rule simply by avoiding adjectives.

ESMA

Securities and Markets Stakeholder Group

Own initiative report

SMSG own initiative report on the future of supervision for EU financial markets

Table of Contents

1 Executive Summary

This SMSG advice aims to contribute to the policy debate on the future of EU financial supervision in the context of the ongoing Level 1 discussions regarding the proposed Market Integration and Supervision Package (MISP).

The report examines, from the perspectives of the actors represented in the SMSG, certain aspects and modalities which may follow as a result of the potential strengthening of EU-level supervision, with a particular focus on ESMA's evolving role.

The SMSG recognises the rationale set out in the MISP proposal for enhanced EU supervision to address market integration, cross-border activities and risks of supervisory arbitrage, while stressing that reform should be proportionate, evidence-based and market-driven. Strengthening supervision should primarily seek to improve supervisory effectiveness, consistency and legal certainty, as well as investor protection.

The report underlines the importance of extension of ESMA's direct or coordinating powers at Level 1 being accompanied by a clear allocation of responsibilities and robust cooperation with national competent authorities (NCAs), so that overlaps and duplications are avoided. The SMSG identifies supervisory convergence, joint supervisory teams and practical coordination mechanisms as possible tools to ensure the success of the reform.

The SMSG highlights the importance of safeguarding EU financial markets' competitiveness, attractiveness, growth and innovation capability. It notes that while there are divergent views

https://www.esma.europa.eu/document/smsg-own-initiative-report-future-supervision-eu-financial-markets

ESMA Q&A 2552

- Recital 22 states that crypto-assets with no identifiable issuer fall outside Titles II, III and IV altogether.
- Q&A 2552 – again answered by the Commission and not by ESMA - states that no white paper is required for such assets, and that Art. 5(2) therefore does not apply to them.
- But the same answer holds that platforms must still make a "determination of whether an identifiable issuer exists, i.e. whether a white paper is required".
- The exemption is confirmed, and so is the duty to establish whether it applies. The platform cannot simply assume it does.
- MiCAR never defines "identifiable issuer". The phrase appears only in a recital, never in the enacting terms.
- Identifiability cannot rest on names alone, or a pseudonym would be enough to escape the regime.
- Result: the scope of the MiCAR regime rests on a Recital and a Q&A, with undefined terminology.

ESMA Q&A 2654

- ESMAs answer relies on Article 143 regarding the transitional periods, which are applicable to trading platforms only.
- Unfortunately, the answer does currently not distinguish between “offerors” and “trading platforms”, which can lead to faulty interpretation.
- Our take:
    - If a trading platform lists a new asset after 30 December 2024, that trading platform must have a MiCA-compliant white paper or must have the written permission to use a MiCA-compliant white paper from somebody who drew one up.
    - Offerors should have drawn up MiCA-compliant white papers for all crypto-assets offered after 30 December 2024 or must have the written permission to use a MiCA-compliant white paper from somebody who drew one up.

PRACTICAL CONSEQUENCES

- As stated, Q&As 2404 and 2552 were referred by ESMA to the European Commission, which supplied the answers.
- Both carry the standard disclaimer that they "do not extend in any way the rights and obligations deriving from such legislation".
- Both add that only the Court of Justice can authoritatively interpret Union law.
- The SMSG notes that market participants treat Q&As as binding despite this, and that they "sometimes brought some confusion, when giving the impression to add to Level 1 texts".
- Thus, the two most consequential questions under Title II are governed by soft law instruments.
- Conflicting interpretations between the Level 1 text and Level 3 Q&As hinder legal certainty and exposes the regime to risks of legal disputes and challenges

PRACTICAL CONSEQUENCES

- Due to the high incentive of damaged investors to sue the platforms for missing white papers, the chances of this seems likely
- First formations are already building up, the “VfpgK” (“Association for Potentially Aggrieved Crypto Investors) was incorporated in Austria especially targeting German-speaking countries (which makes sense, given the exceptionally high number of CASPs in Germany, for example)
- In turn, trading platforms that relied on Q&As to support their positions may be inclined to pursue litigation. On the institutional side, the main exposure to legal challenges can be identified at national-level, given the nature of Q&As.
- Actions against NCAs are therefore a risk of the current regulatory landscape

https://www.vfpgk.at/

Expert Presentation

MiCA White Papers and Investor Protection: Does the Current Framework Deliver?

Christiane Hölz, Chair of Legal Committee, BETTER FINANCE; Managing Director, DSW

MiCA White Papers and Investor Protection: Does the Current Framework Deliver?

DSW - Deutsche Schutzvereinigung für Wertpapierbesitz e.V.
www.dsw-info.de

Agenda

1. Evaluation of the current implementation

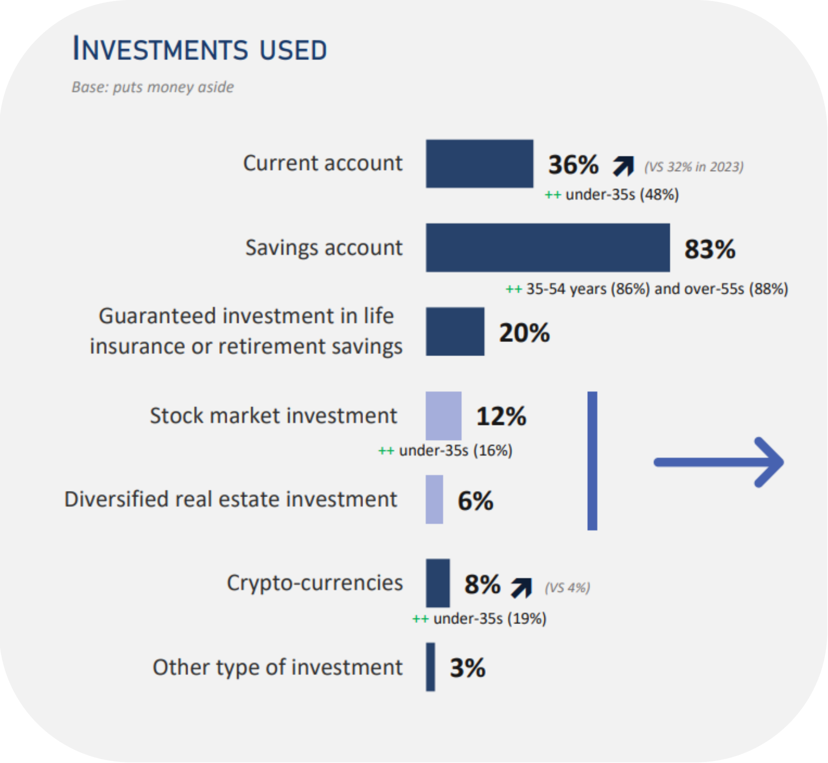
2. Particular challenges

3. What needs to be done to ensure investor protection
3.1. Now
3.2. In a possible MiCA 2.0

About DSW

- Deutsche Schutzvereinigung für Wertpapierbesitz e.V. (DSW) is Germany's leading association for private investors.
- Founded in 1947, DSW now has about 30,000 members. DSW represents its members at approximately 650 general meetings per year.
- In addition to representing private investors' interests both at general meetings and at political level, DSW offers a wide range of services for their members and serves as the central board for 7,000 investment clubs in Germany.
- Member of BETTER FINANCE.

Crypto is no longer niche – it is the new mainstream



ECB data from selected euro area countries suggest that in 2024, around 10% of households held crypto assets, with around 14% having expressed an interest in future purchases.

AMF Savings and Investment Barometer 2024 among 2,044 French individuals.

European Banking Authority

European Insurance and Occupational Pensions Authority

ESMA

WARNING ON CRYPTO-ASSETS

Whitepapers are fundamental for investor protection and should be treated as such

DSW

Die Anlegerschützer

What you should ask yourself before investing in crypto-assets?

1 **Am I aware of the risks I am taking when investing in or using crypto-assets?**

- Before investing, take the time to learn about the products or services you are interested in.

2 **Are the firms/parties I am considering dealing with authorised to provide crypto-asset services in the EU?**

- You can check if a provider is authorised in the EU by:
  - Checking the ESMA register (shorturl.at/zZwVI)*. The national financial regulator may also provide a 'blacklist' of unauthorised crypto-asset firms, including service providers. So you can also check its website or the I-SCAN list (iosco.org/i-scan/).

Information is key but lacking

Bafin conducted a survey about the “knowledge” of crypto-investors and found a **clear lack of information among consumers**. **This directly supports the urgent need of MiCA-compliant white papers** – as these are the central documents for information for the investors.


25.08.2026 | Bafin-Erhebung

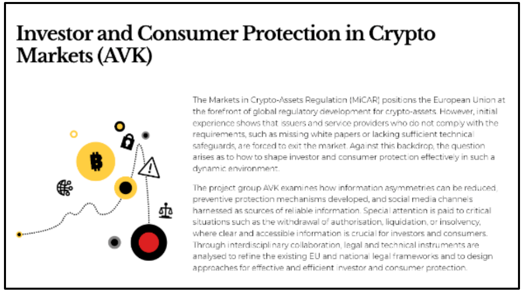
Wissenslücken bei Krypto-Anlegerinnen und -Anlegern

Auf den weltweiten Finanzmärkten herrscht zwar gerade Flaute bei Bitcoin & Co. Bei Deutschlands Verbraucherinnen und Verbrauchern sind Kryptowerte aber trotzdem beliebt. Doch nicht alle kennen die Produkte gut genug. Das zeigt eine Erhebung der Bafin.

Quelle: Westend61/Westend61 via Getty Images

https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Fachartikel/2026/fa_260825_kryptowissen.html

The ”Center of responsible Digitality” has formed a **working group** named “**Investor and Consumer Protection in Cryptocurrency Markets**”, which addresses this matter and DSW contributed in the past.


Investor and Consumer Protection in Crypto Markets (AVK)

The Markets in Crypto-Assets Regulation (MiCAR) positions the European Union at the forefront of global regulatory development for crypto-assets. However, initial experience shows that issuers and service providers who do not comply with the requirements, such as missing white papers or lacking sufficient technical safeguards, are forced to exit the market. Against this backdrop, the question arises as to how to shape investor and consumer protection effectively in such a dynamic environment.

The project group AVK examines how information asymmetries can be reduced, preventive protection mechanisms developed, and social media channels harnessed as sources of reliable information. Special attention is paid to critical situations such as the withdrawal of authorisation, liquidation, or insolvency, where clear and accessible information is crucial for investors and consumers. Through interdisciplinary collaboration, legal and technical instruments are analysed to refine the existing EU and national legal frameworks and to design approaches for effective and efficient investor and consumer protection.

https://zevedi.de/themen/avk/

ESMA's Central White Paper Register: Transparency in Practice

- **ESMA's interim central white paper register**, intended to enhance transparency, remains **incomprehensible to individual investors** and **contains inconsistencies**, limiting its utility.

- Unlike prospectuses, **white papers require no prior NCA or ESMA approval**. This leads to non-compliant or non-existing white papers in the ESMA register.

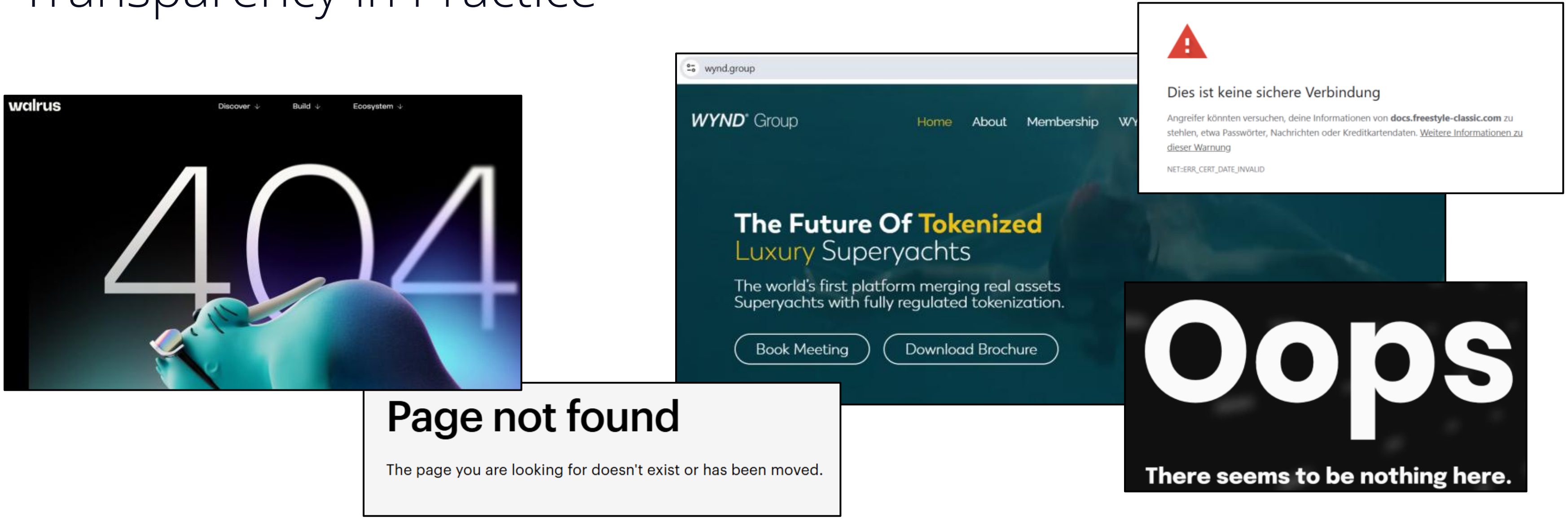
wp_url
https://www.skygatetoken.at/wp-content/uploads/2025/01/WHITEPAPER-SKYGATE-MiCAR-Version-1-18.01.25-EN-DE.pdf
www.desertgreener.io
https://www.emgemx.com
https://steelcoin.com/
http://vision.now/
https://docs.zknation.io/legal/zk-token-mica-white-paper
https://starkware.co/
https://abloxx.com/en/details
https://xyo.network/papers/mica-white-paper
xl1-mica-white-paper.pdf
https://plancknetwork.com/whitepaper.pdf
https://verdanteurope.com/site/assets/files/1172/apf_digital_agrifund_cr_crypto-asset_white_paper_eng.pdf

Link to website, not to white paper

No link

Direct link to whitepaper

ESMA's Central White Paper Register: Transparency in Practice



Linked white papers **do not appear to be systematically verified for actual availability** on the referenced websites.

White Paper available at CASP level?

In March 2026, DSW commissioned the Frankfurt School of Finance & Management to conduct a **research into White Paper disclosures** of crypto-asset service providers ("CASPs").

The dataset covered **136 CASPs** classified as "offeror" or "trading platform".

Offeror: Offers to the public of crypto-assets other than asset-referenced tokens or e-money tokens

Trading platform: Admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens

White Paper available at CASP level?

Potential consequences resulting from the ESMA QAs

Potential consequences of QA 2404

promote ~~or~~ advertise

Potential consequences of QA 2552

Whitepaper-Obligation

Yes

No

Max Mustermann
Musterstraße 22
12345 Musterstadt
Telefon: +49 12345678
E-Mail: m.mustermann@iamnotascammer.com

Not „identifiable“

(whatever that means
or how this should be measured)

Note: Other Jurisdictions do not know the concept of “unidentifiable issuer” at all – the UK FCA and the Brazilian regulator demands a disclosure document for every asset.

Potential consequences of QA 2552

Without white papers, neither from the (non-identifiable) issuer, nor from the offerors nor trading platforms, there is **no document reliably informing investors about the risks of an investment.**

On top of that, there is **no one to hold accountable** for misleading information. Retail investors have no one to address in terms of losses.

Particularly challenging – QA based on recitals

10

THE PURPOSE OF THE RECITALS IS TO SET OUT CONCISE REASONS FOR THE CHIEF PROVISIONS OF THE ENACTING TERMS, WITHOUT REPRODUCING OR PARAPHRASING THEM. THEY SHALL NOT CONTAIN NORMATIVE PROVISIONS OR POLITICAL EXHORTATIONS.

Source: https://op.europa.eu/en/publication-detail/-/publication/3879747d-7a3c-411b-a3a0-55c14e2ba732 (Joint practical guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation)

Particularly challenging – QA based on recitals

The phrase **"no identifiable issuer", on which the entire logic of QA 2552 rests, is nowhere to be found in the enacting text of the Regulation.**

What needs to be done?

Now

- **Review QA 2404, 2552 and 2654 against the legal text of the Regulation**. Make sure that white papers are properly provided if new assets are listed in the case of trading platforms or offered by offerors.
- Improve the **ESMA white paper register**, e.g. by a built-in, systematic verification mechanism for the accessibility and currency of linked white papers and build it on a standardised machine-readable format.
- **Enforce** the white paper requirements.

What needs to be done?

Possible MiCA 2.0

- **MiCA 1.0 was largely good "as is" – the QAs were introducing the confusion.**

- **A Key-Investor-Document** could enhance the transparency even more.

- Consider **standardised readability and warning-label requirements** addressing the documented lack of consumer knowledge.

- Reading recommendation for the German-speaking audience: https://beck-online.beck.de/Default.aspx?typ=reference&y=300&z=BKR&b=2026&s=844&n=1

Expert Presentation

ESG Disclosures under MiCA: Public Website Compliance and Formal Alignment in the CASP Market

Prof. Dr. Christoph Kreiterling, Professor of Technology Impact Assessment and Sustainability Communication at Trier University of Applied Sciences, former Senior Adviser and MiCA team co-lead at BaFin

About me

Prof. Dr. Christoph Kreiterling
Professor of Technology Impact Assessment and Sustainability Communication
Trier University of Applied Sciences, Birkenfeld Environmental Campus

Topics: Digital Finance; Behavioral Finance; Sustainability & -communication;
AI & -Strategy; Crypto Assets; Corporate Ethics; Project Management.

Dr. rer. pol. (Business Informatics, KI in banks); M.Sc Business Psychology; Master of Business Administration (MBA); Diplom-Betriebswirt (FH)

more:


Photo: Umwelt Campus Birkenfeld

Agenda

ESG Disclosures under MiCA: Public Website Compliance and Formal Alignment in the CASP Market

Methodological approach

Results

Takeaway

Methodological approach

Assessment dates: August 7th until August 29th, 2026

Base: ESMA CASP list dated 03.08.2026 (ESMA-Filename “ESMA_CASPS_2026-08-03.csv”)

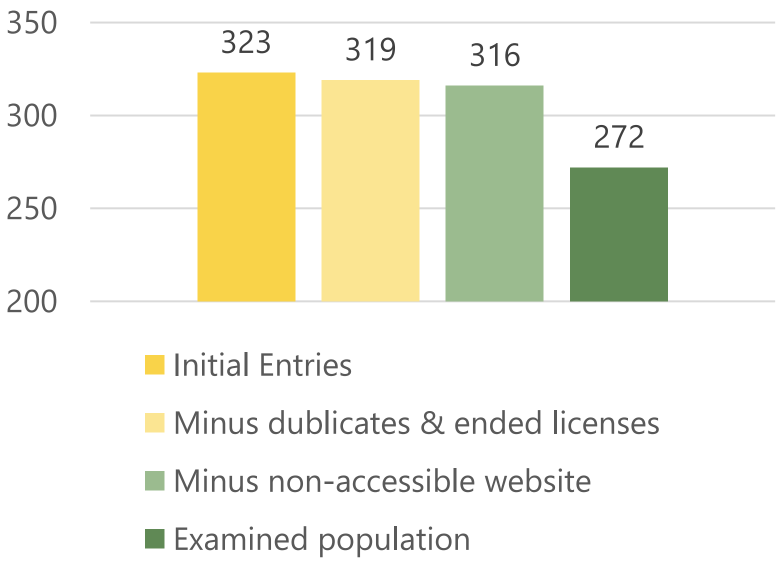
Set-Up: Single coder, rule-based codebook

First step: Downloading the ESMA CASP list

Second step: Normalizing data from the ESMA CASP list

Finding: The ESMA CASP list needed quite some normalization-work. Standardised machine-readable format would have eased that burden.

272 CASPs examined in detail



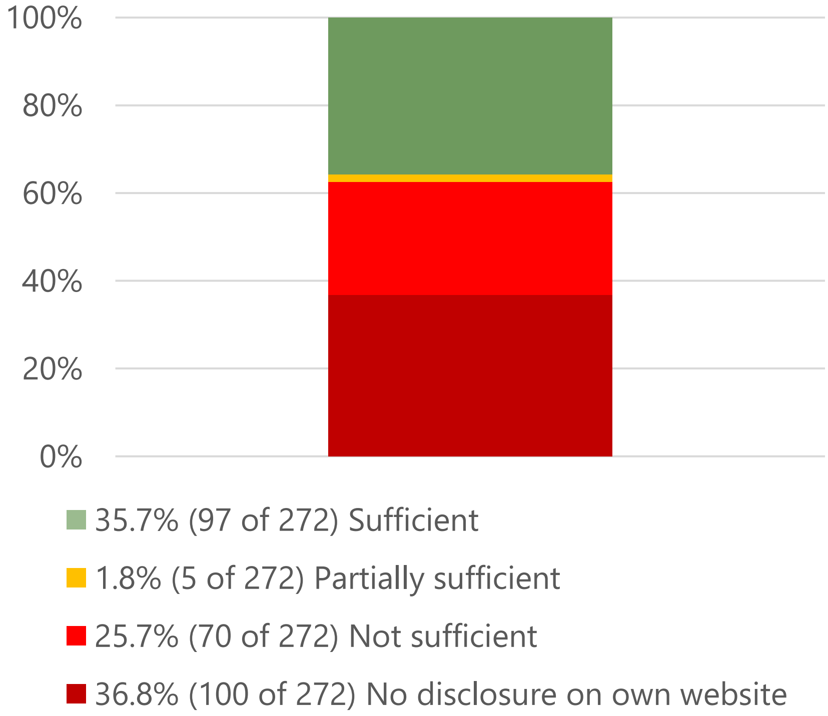
Out of 323 initial entries in the CASP-list, 4 entries were dropped. 2 were duplicates due to additional licenses, 2 authorizations ended.

That left 319 CASPs entering the first assessment. 3 CASPs were dropped as either the website was not available at all, or active service provision was unclear. 44 CASPs were dropped, as active service provision was not identified and a "conservative" approach to assess the requirements was chosen.

272 CASPs made it into the detailed ESG-Examination

Data from upcoming DSW ESG-Compliance Tracker.

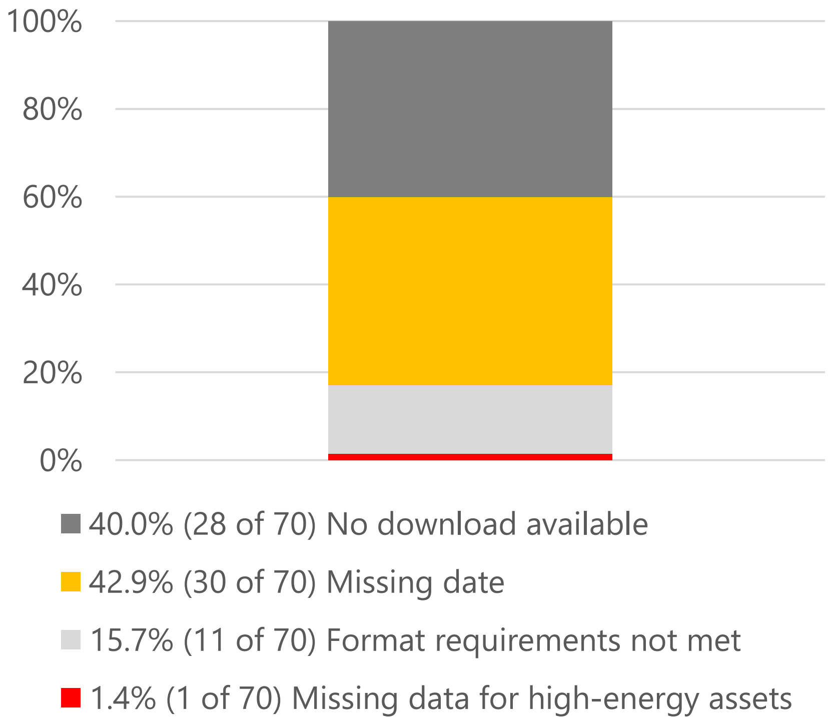
Only 37.5% partially or fully sufficient (102 of 272, whereas 5 where only hard to identify) under the assessed website criteria



- 97 of 272 (35.7%) sufficient under the assessed website criteria for the reviewed set (up to 5 regular plus up to 3 high-energy assets), completeness across all serviced crypto-assets not verified
- 5 of 272 (1.8%) published ESG-Data were deemed ”partially sufficient” (not ”prominently” displayed)
- 70 of 272 (25.7%) CASPs published ESG-Data were deemed ”not sufficient” (see next page for more detailed analysis)
- No qualifying Art. 66(5) disclosure on the CASP’s own website: 100 of 272 (36.8%) (94 none identified, 5 third-party site only, 1 access-restricted)

Data from upcoming DSW ESG-Compliance Tracker.

Not sufficient – detailed analysis



28 of 70 (40.0%) No download available

30 of 70 (42.9%) Missing date

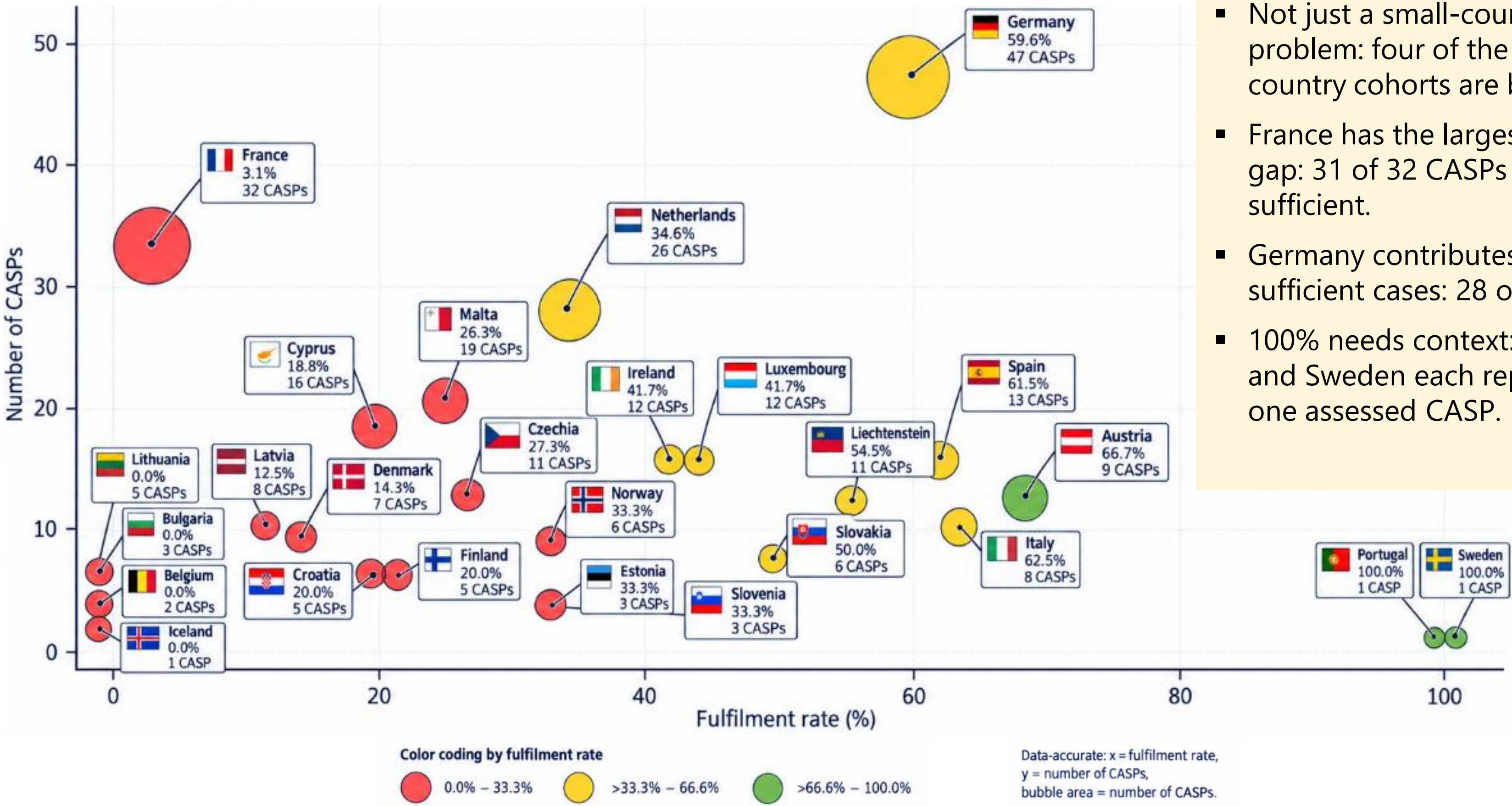
11 of 70 (15.7%) Format requirements not met

1 of 70 (1.4%) Missing data for high-energy assets

ESMA and NCAs should enhance the enforcement of the already applicable regulation, no amendmend in MiCA 2.0 needed.

Data from upcoming DSW ESG-Compliance Tracker.

Country view – sufficient under the assessed criteria



Data from upcoming DSW ESG-Compliance Tracker.

- One framework, sharply different outcomes: Germany 59.6%; France 3.1%.
- Not just a small-country problem: four of the five largest country cohorts are below 35%.
- France has the largest absolute gap: 31 of 32 CASPs not rated sufficient.
- Germany contributes 29% of all sufficient cases: 28 of 97.
- 100% needs context: Portugal and Sweden each represent just one assessed CASP.

Takeaway

- A machine-readable, comparable format, as the RTS already intends (Art. 3(1)(b)), would ease comparison for investors and supervision.
- ESMA and NCAs should enhance the enforcement of the already applicable regulation, no amendmend in MiCA 2.0 needed.
- When published but not sufficient, "formal" aspects seem to be the main challenge.

Keynote Speech

ESMA's Perspective on MiCA and the Way Forward

William Marshall, Policy Officer in the Market and Digital Innovation, ESMA

BETTER FINANCE
Co-funded by the European Union

Main Policy Take-Aways – Now

- MiCA 1.0 seems sufficient in a lot of cases, if the Level-1-Text would be applied and enforced correctly

- Several Q&As have altered the meaning of the Level-1-Text introducing possibly faulty „de-facto-law“, putting consumers and NCAs at risk

- Possible Solutions
  - A party could submit questions referring to previos answers, that could then be corrected (see QA 1013 as example)
  - Trigger Art. 16b(4) of Regulation (EU) 1095/2010 formally

Main Policy Take-Aways – 2.0

- There is no unidentifiable issuer – the question is if the issuer is identified yet and if the identifiability should have an impact on the disclosures. When identifiability is a challenge, the possible (technical) disclosures become even more and not less important.

- Treat the term „fully decentralized“ with extreme caution, as most projects claiming to be decentralized are not (see studies from EZB, for example).

- Engage with people who are familiar with consumer protection in crypto-markets even more.

Q&A


Markets in Crypto-Assets Regulation:
THE STATUS QUO, REGULATORY GAPS AND THE ROAD TO MICA 2.0

Annex


Markets in Crypto-Assets Regulation:
THE STATUS QUO, REGULATORY GAPS AND THE ROAD TO MICA 2.0
BETTER FINANCE
Co-funded by the European Union

Methodology - criteria

ESG-1: public Article 66(5) disclosure

Sufficient if publicly available on the CASP website. Not sufficient if no disclosure is found, access is login-only, the disclosure is available only on a third-party website, or it is inaccessible. If ESG-1 is Not sufficient, do not continue the substantive assessment of ESG-2 to ESG-6.

ESG-2: prominent place

Assess only if ESG-1 is passed. Sufficient typically where the disclosure is available from the homepage, main menu, footer, or within no more than three substantive navigation steps. Not sufficient if it can be found only via an internal search, external search engine, deep link, unusual/indirect path, non-obvious menu structure, or more than three substantive navigation steps. Cookie banners, language selection, scrolling, and same-page anchors do not count as substantive navigation steps.

Methodology - criteria

ESG-3: downloadable file

Check whether a downloadable file is available. This may be a dedicated ESG/MiCA disclosure or a White Paper, provided that it contains the required ESG information.

ESG-4: Publication or latest Review/Update Date

A Publication Date or Latest Review/Update Date must be clearly indicated. ESG-4 is Sufficient if at least one such date is provided and the most recent relevant date is no more than twelve months old. If both dates are absent, or the most recent relevant date is more than twelve months old, ESG-4 is Not sufficient. For this operational assessment, a current Review/Update Date is sufficient even without a separate original Publication Date. The date may appear in the document, on the disclosure page, or on a clearly related CASP page.

Methodology - criteria

ESG-5: Table 2

Assess the defined review-set entries: the first five entries in the disclosure plus up to three active ESG trigger assets. If required Table 2 fields are missing or the visibly assessable format is incorrect, ESG-5 is Not sufficient. Values, labels, or field content that are visibly cut off, obscured, materially truncated, or otherwise not publicly readable are treated as absent for ESG-5. Poor formatting or small font size alone does not result in a negative finding if the required information remains identifiable and publicly readable.

ESG-6: Table 3, where applicable

Table 3 is relevant where the CASP has permission b, c, or d and S.8 exceeds 500,000 kWh for an assessed asset. In that case, the required Table 3 fields, including S.15 and S.16, must be present. If S.8 or required Table 3 values, labels, or field content are visibly cut off, obscured, materially truncated, or otherwise not publicly readable, this is handled under the ESG-6 logic. Poor formatting or small font size alone does not result in a negative finding if the relevant required information remains identifiable and publicly readable.