



# European Crypto Regulation: A Summary of Law by Country

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## Foreword

This survey provides an overview of European cryptoasset regulation (prior to the introduction of MiCA), focussing on 28 European jurisdictions, both inside and outside the EU. We summarise the regulations applying to the main activities performed by cryptoasset service providers and the requirements of the licensing regimes, including time and cost. Our aim is to provide information which is both legally accurate and a practical aid for decision-making. If you require further advice in any of these jurisdictions, please reach out to us or direct to the relevant lawyers (contact details provided).

Europe had established itself as a leading centre for crypto innovation when anti-money laundering (AML) regulation arrived in 2019/2020. AML regulation was implemented in an inconsistent manner, even among the member states of the EU, with some jurisdictions enacting and enforcing laws years before some others. Certain jurisdictions went above and beyond the FATF recommendations, with some including crypto within their financial services regulation. This created the current regulatory landscape which is highly fragmented and inconsistent. While there are some common themes across jurisdictions (in particular, regulation for anti-money laundering (AML) and countering the financing of terrorism (CFT) controls), there is significant divergence between them.

We have had to wait a few years for the dust to settle on the implementation of AML regulation and it seems unlikely that there will be significant changes in the EU before the implementation of the forthcoming Regulation on Markets in Crypto Assets (MiCA). However, the implementation of MiCA will be staggered, so the patchwork of national regulations in the EU will continue to present a challenge for some time. We will also keep our eye on the development of crypto regulation in the non-EU jurisdictions and will update this survey for MiCA implementation and otherwise as appropriate.

In addition to contributions from our colleagues at CMS, this survey contains the work of lawyers from other leading firms. We would like to thank all our colleagues and friends around Europe who have made this publication possible.

CMS Crypto & Digital Assets Team, London

## Table of Contents

|                      |    |
|----------------------|----|
| Foreword.....        | 1  |
| Austria.....         | 3  |
| Belgium.....         | 9  |
| Croatia.....         | 11 |
| Cyprus.....          | 13 |
| Czech Republic.....  | 19 |
| Estonia.....         | 22 |
| France.....          | 25 |
| Germany.....         | 29 |
| Gibraltar.....       | 31 |
| Greece.....          | 36 |
| Ireland.....         | 38 |
| Israel.....          | 41 |
| Italy.....           | 43 |
| Latvia.....          | 45 |
| Liechtenstein.....   | 48 |
| Lithuania.....       | 51 |
| Luxembourg.....      | 57 |
| Malta.....           | 59 |
| The Netherlands..... | 62 |
| Poland.....          | 65 |
| Portugal.....        | 68 |
| Romania.....         | 69 |
| Spain.....           | 72 |
| Sweden.....          | 75 |
| Switzerland.....     | 77 |
| Slovenia.....        | 82 |
| Slovakia.....        | 85 |
| United Kingdom.....  | 88 |

# Country by Country

## Austria

| Question  | AML Regulation   | Financial Services Regulation   |
|---|--|---|
| <p><b>How is crypto regulated?</b></p>  | <p>The Financial Markets Anti-Money Laundering Act (<b>Finanzmarkt-Geldwäschegesetz; FM-GwG</b>) entered into force in 2017 to implement the provisions of the Fourth Money Laundering Directive (<b>4MLD</b>) and was further amended in 2019 to include virtual asset service providers in compliance with the Fifth Money Laundering Directive (<b>5MLD</b>).</p>   | <p>The main sources for the regulation of financial services are:</p> <ul style="list-style-type: none"> <li>— Austrian Banking Act (<b>BWG</b>)</li> <li>— Austrian Securities Supervision Act (<b>WAG 2018</b>)</li> <li>— Austrian Payment Services Act (<b>ZaDiG 2018</b>)</li> <li>— Austrian E-Money Act (<b>E-Geld Gesetz</b>)</li> </ul>  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>— Exchange (buy/sell)</li> <li>— Custody (hold)</li> <li>— Borrowing/lending</li> <li>— Yield/staking</li> </ul> | <p>Virtual asset service providers are defined in Article 2 no. 22 FM-GwG as all providers (i.e. both natural persons and legal entities) that offer one or more of the following services:</p> <ul style="list-style-type: none"> <li>— safeguarding private cryptographic keys, to hold, store and transfer virtual currencies on behalf of a customer (custodian wallet providers);</li> <li>— the exchange of virtual currencies into fiat currencies and vice versa;</li> <li>— the exchange of one or more virtual currencies between one another;</li> <li>— the transfer of virtual currencies; or</li> <li>— the provision of financial services for the issuance and selling of virtual currencies.</li> </ul> <p>The following activities correspond with one or more of the above-mentioned services and are therefore regulated in Austrian jurisdiction:</p> | <p>In principle, none of the above activities are regulated <i>per se</i>. However, it may be that due to the design of the cryptocurrency itself, the scope of application of one or more of the above laws is fulfilled.</p> <p><u>For example:</u></p> <p><b>Exchange:</b></p> <p>If a stablecoin is considered e-money, consequently, the e-money Act, the ZaDiG 2018 or the Austrian Banking Act (<b>Bankwesengesetz, BWG</b>) may be applicable.</p> <p>According to the ZaDiG 2018, only payment service providers are permitted to provide payment services on a commercial basis in Austria. Against this background, the transfer of funds may require a license under the ZaDiG 2018 to act as a payment service provider.</p> <p>Additionally, the BWG covers abstract means of payment, especially the provision of credit cards or e-money. These are qualified as means of payment or payment instruments (Section 1 (1) (6) BWG, Section 1 (2) (4) ZaDiG) or as e-money. Therefore, an exchange might also be obliged to acquire a license under the BWG if</p> |

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|   | <p><u>Exchange</u> is considered</p> <ul style="list-style-type: none"> <li>— exchanging of virtual currencies into fiat currencies and vice versa;</li> <li>— exchanging one or more virtual currencies between one another;</li> </ul> <p><u>Custody</u> is considered</p> <ul style="list-style-type: none"> <li>— services to safeguard private cryptographic keys, to hold, store and transfer virtual currencies on behalf of a customer (custodian wallet providers)</li> </ul> <p><u>Borrowing/lending</u> is considered (depending on the specific setup)</p> <ul style="list-style-type: none"> <li>— transferring of virtual currencies</li> </ul> <p><u>Yield/staking</u> is considered (depending on the specific setup )</p> <ul style="list-style-type: none"> <li>— exchanging or one or more virtual currencies between one another</li> <li>— transferring of virtual currencies</li> </ul> <p>Pursuant to Article 32a FM-GwG, virtual asset service providers that intend to provide their services pursuant to Article 2 no. 22 FM-GwG in connection with virtual currencies and pursuant to Article 2 no. 21 FM-GwG on a commercial basis domestically, or offer the service from Austria, are required to apply for a registration from the Financial Market Authority (FMA) prior to commencing their business activities.</p> <p>However, it must be checked in each individual case, e.g. which cryptocurrency is used by the business (for example: security token, e-money token, etc.).</p> | <p>it performs these banking activities on a commercial basis.</p> <p>Offering security tokens to the public might trigger the issuers obligations to publish a prospectus under the EU Prospectus Regulation of the Austrian KMG 2019.</p> <p>Operating a marketplace for the trade of security tokens likely triggers licensing obligations within the meaning of the WAG 2018.</p>  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>Historically, applications of virtual asset service providers with the FMA have taken between 6 and 12 months.</p>   | <p>The duration of a licensing procedure under the Securities Supervision Act, the Payment Services Act, or the E-Money Act, depends primarily on the applicant's quality of documents and procedures, the experience, reputation and skills of the management, and the cooperation of the applicant in following the FMA's procedural orders and deadlines. The FMA is obliged to</p> |



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|   |   | make a decision within 6 months of receipt of the completed, submitted documents. The actual duration of the procedure varies heavily depending on the type, scope and complexity of the business model to be assessed, the shareholder and organizational structure, and the financial soundness of the license applicant. Average duration is between 6-18 months.   |
| <b>What would be the approximate overall cost of obtaining a licence?</b>                                   | <p>The application fee is €3,000. Additionally, there are ongoing costs, such as for the ongoing supervision by the FMA. The FMA will check compliance with the provisions of the FM-GwG as well as with Regulation (EU) 2015/847 on information accompanying transfers of funds as part of its ongoing supervisory activities. The costs of supervision pursuant to Article 21a para. 3 of the FMA Cost Regulation (FMA-Kostenverordnung) are 0.4% of the gross fees from services in relation to virtual currencies to be reported annually to the FMA received annually by the supervised institution or at least EUR 500 as a lump sum each year.</p> | <p>The application fee for the granting of the license:</p> <ul style="list-style-type: none"> <li>— to operate a banking business (BWG) is a minimum of €10,000.</li> <li>— for the provision of payment services (ZaDiG 2018) is a minimum of €8,000.</li> <li>— to provide investment services (WAG 2018) is a minimum of €3,000.</li> <li>— to issue electronic money (<b>E-Geldgesetz</b>) is a minimum of €8,000.</li> </ul> |
| <b>What is the probability (%) of success in obtaining a licence?</b>                                       | <p>The possibility of obtaining a licence is difficult to estimate, but the following factors are likely to be influential:</p> <ul style="list-style-type: none"> <li>— if there have already been activities in Austria;</li> <li>— if all the required documents been submitted correctly,</li> <li>— if and how the applicant has previously operated in Austria;</li> <li>— the strength of the applicant's business plan and model; and</li> <li>— the applicant's adherence to Austrian AML/CTF laws, thorough policies, and fit-and-proper management and MLRO.</li> </ul>  | <p>This highly depends on the type of license/concession that is sought. In Austria, a reputable crypto exchange has acquired a license as a Payment Service Provider, an E-Money Institute, and an Investment Firm, all in addition to the registration as a virtual asset service provider.</p>  |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b> | <p>The following information and documents are to be submitted with the registration:</p>   | <p>Should a cryptocurrency service fall under the scope of any of the above-mentioned financial services regulations (BWG, ZaDiG 2018, WAG 2018, E-Geld-Gesetz) and thus require a license, the specific</p>   |

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| <p><b>E.g., Compliance requirements and physical presence</b></p> | <p><b><u>For natural persons as service providers:</u></b></p> <ul style="list-style-type: none"> <li>— Forename and surname, date and place of birth of the service provider including a copy of an official photo identification document;</li> <li>— Registration numbers from identification registers (e.g., Commercial Register (Firmenbuch) no.); place of incorporation (residence) of the provider as well as an e-mail address and telephone number;</li> <li>— A current extract of a judicial record (not older than six weeks) of the provider or an equivalent foreign document;</li> <li>— Description of the business model including the precise details about which services listed in Article 2 no. 22 FM-GwG are being applied for;</li> <li>— A description of the internal control system and the planned strategies and procedures in order to meet the requirements set out in the and Regulation (EU) 2015/847 (<b>Transfer of Funds Regulation</b>) as well as the requirements in FATF Recommendation 16 (<b>travel rule</b>), including details about the person that will take over the role of the Anti-Money-Laundering Officer and</li> <li>— Proof of having successfully passed an intern “<b>Fit &amp; Proper test</b>”</li> </ul> <p><b><u>For legal entities as providers:</u></b></p> <ul style="list-style-type: none"> <li>— Information about the undertaking (especially the company name, registered office, business address, e-mail address and telephone number, Commercial Register number);</li> <li>— Up-to-date excerpt from the Commercial Register or an equivalent excerpt from a public register/database excerpt (no older than six weeks) for the provider;</li> <li>— Forename and surname, date and place of birth of the director including a copy of an official photo identification document;</li> </ul> | <p>regulation’s rules and stipulations need to be complied with when applying.</p> |
|---|--|--|

- Forename and surname, date and place of birth of the beneficial owner(s) pursuant to Article 4 (1) point 36 of Regulation (EU) No 575/2013 (CRR) (holder of a qualifying holding) including copies of an official photo identification document of the beneficial owner(s);
- An up-to-date (no older than six weeks) extract of a judicial record of the director(s) as well as the beneficial owner(s) pursuant to Article 4 (1) point 36 of Regulation (EU) No 575/2013 (holder of a qualifying holding);
- A depiction of the ownership and control structure of the service provider in the form of an organisation chart including information about the amount of the participation held by the beneficial owner(s) pursuant to Article 4 (1) point 36 of Regulation (EU) No 575/2013 (CRR);
- Description of the business model including the precise details about which services listed in Article 2 no. 22 FM-GwG are being applied for;
- A description of the internal control system and the planned strategies and procedures in order to meet the requirements set out in Regulation (EU) 2015/847 (**Transfer of Funds Regulation**) as well as the requirements in FATF Recommendation 16 (**travel rule**), including details about the person that will take over the role of the Anti-Money-Laundering Officer; and
- Proof of having successfully passed an internal **“Fit & Proper test”**.

Physical presence in Austria is not required.



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# Belgium

| Question  | AML Regulation   | Financial Services Regulation  |
|---|--|--|
| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) extended the Fourth Money Laundering Directive (<b>4MLD</b>) regime to “providers engaged in exchange services between virtual and fiat currencies” and to “custodian wallet providers”. 5MLD has been transposed into Belgian law through amendments to the Law made on 18 September 2017 on the prevention of money laundering and terrorism financing and restricting the use of cash (<b>AML Law</b>), and via a Royal Decree of 8 February 2022 on the status and supervision of exchange services between virtual currencies and fiduciary currencies, and custodian wallet providers (<b>RD</b>). Virtual asset service providers with a Belgian fixed establishment are subject to registration with, and the supervision of the Belgian Financial Services and Markets Authority (<b>FSMA</b>).</p> | <p>There are no specific Financial Services Regulations regarding virtual assets and virtual assets services. Virtual assets might, depending on their features, be characterized as financial instruments (therefore falling under the scope of broader financial regulations such as MiFID, Prospectus, AIFM, etc). This needs to be examined on a case-by-case basis.</p> |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>— Exchange (buy/sell)</li> <li>— Custody (hold)</li> <li>— Borrowing/lending</li> <li>— Yield/staking</li> </ul> | <ul style="list-style-type: none"> <li>— Exchange (buy/sell): Yes, insofar as the exchange is made with fiat/legal currencies</li> <li>— Custody (hold): Yes</li> <li>— Borrowing/lending: no (but could potentially fall under consumer credit regulations)</li> <li>— Yield/staking: no</li> </ul> <p>The above is only required for Belgian based providers (i.e. Belgian companies or EU companies with an establishment or ATM in Belgium). A Belgian based provider will need to demonstrate that it has policies, controls and procedures in place to effectively manage money laundering and terrorist financing risks proportionate to the size and nature of the business’ activities.</p>   |  |

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|  | <p>EU providers without Belgian establishment do not need to obtain a Belgian licence.</p> <p>Non-EU providers are prohibited to target the Belgian market.</p>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  | <p>Approximately between 3 and 5 months. (The regulator must take a view within 3 months from receipt of a complete file).</p>  |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>   | <p>Regulator fees amount to €8,000 for an exchange licence and (another) €8,000 for custody licence.</p>  |  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>   | <p>If the applicant has strong AML processes, the probability to obtain a licence is high.</p>  |  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>If a Belgian licence is required, the central administration must be located in Belgium. The organisation must permit the virtual asset services provider to comply with all legal and regulatory obligations, and to manage all operational risks including a permanent, resilient and secured IT system.</p> |  |

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# Croatia

| Question   | AML Regulation  | Financial Services Regulation   |
|--|---|---|
| How is crypto regulated?   | See below.  |   |
| <p>Are the following activities regulated or unregulated in your jurisdiction?</p> <ul style="list-style-type: none"> <li>— Exchange (buy/sell)</li> <li>— Custody (hold)</li> <li>— Borrowing/lending</li> <li>— Yield/staking</li> </ul> | <p>Under AML regulation, entities providing exchange services between virtual currencies and fiat currencies and/or wallet services and branches of equivalent entities are required to carry out KYC proceedings under the Croatian AML Act.</p> <p>Every company that intends to perform respective crypto services is obliged to notify the Croatian Financial Services Supervisory Agency (<b>HANFA</b>) which supervise the implementation of AML obligations.</p> <p>There are currently 15 companies performing crypto services, you can find them <a href="#">here</a>.</p> | <p>Exchange and custody services are partially covered with AML regulations. Current financial services regulations do not cover borrowing/lending or yield/staking services.</p> |
|  | <p>There are no special licenses or other regulatory approvals required before establishing a crypto asset business. Such business is usually established as a limited liability company (in Croatian: društvo s ograničenom odgovornošću (<b>d.o.o.</b>)). After establishment, HANFA must be notified in accordance with AML obligations.</p>   |   |
| How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?  | <p>No specific license is required. Therefore, the only time that needs to be taken into account is the time that it takes to establish a company and notifying HANFA. Establishing a company and notifying HANFA takes approximately 2 – 5 weeks.</p>  |   |
| What would be the approximate overall cost of obtaining a licence?   | <p>Starting up a company costs approximately EUR 3,500, consisting of the following fees:</p> <ul style="list-style-type: none"> <li>— court fees approx. EUR 50;</li> <li>— notary fees approx. EUR 350;</li> <li>— translation fees approx. EUR 30 for common languages, such as English; and</li> <li>— advisory cost approx. EUR 3,000.</li> </ul>  |   |
| What is the probability (%) of success in obtaining a licence?   | <p>A license is not required.</p>   |   |

**What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?**

**E.g., Compliance requirements and physical presence**

Croatian banks are usually very rigid and not very keen to open bank accounts for companies that intend to perform crypto services. Usually, banks refuse to open accounts for such companies based on their general terms and conditions. We strongly advise to check this matter with the bank before initiating any other activities.

On 1 January 2023, amendments to the AML Act were enacted based on which the process of establishing a company performing a cryptoasset business will become much more burdensome. Namely, the license for performing a business will need to be obtained from HANFA prior to establishment of a company. While issuing a license, HANFA will among other things also consider the reputation of the owner of the company. It is expected that the new system will be implemented in next 6-12 months.

Croatian tax of planned activities should be considered in advance as a cryptoasset business would need to assess its corporate profit tax base, comply with mandatory tax reporting, and apply the correct VAT treatment on its supplies.

While Croatian tax implications on the crypto based incomes of individuals is in most part defined (the Croatian Tax Authority has released several official opinions), please note that certain ambiguities exist around the accounting and tax treatment of crypto based income of corporates. Our tax experts can provide support with all the above.

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# Cyprus

| Question                               | AML Regulation   | Financial Services Regulation |
|--|--|-------------------------------|
| <p><b>How is crypto regulated?</b></p> | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) extended the Fourth Money Laundering Directive (<b>4MLD</b>) regime to “providers engaged in exchange services between virtual and fiat currencies” and to “custodian wallet providers”.</p> <p>In Cyprus, the Prevention and Suppression of Money Laundering and Terrorist Financing Law, L188(I)/2007 (<b>AML Law</b>) was amended via L13(I)/2021 (<b>Amending Law</b>), in order to harmonise domestic legislation with the provisions of the 4th and 5th AML Directives (Directives (EU) 2015/849 and 2018/843).</p> <p>The Amending Law introduced the definition of “<b>cryptoassets</b>” as:</p> <p><i>a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically and is not:</i></p> <ul style="list-style-type: none"> <li>a) fiat currency; or</li> <li>b) electronic money; or</li> <li>c) a financial instrument as defined in Part III of the First Appendix of the Investment Services and Activities and Regulated Markets Law [transposing MIFID II].</li> </ul> <p>In relation to cryptoasset businesses, the Amending Law introduced a definition for Cryptoasset Services Providers (<b>CASPs</b>) which are defined as:</p> <p><i>“any person who provides or carries out one or more of the following services or activities to another person or on behalf of another person to the extent that these do not fall within the services or</i></p> |                               |

*activities provided by entities referred to in paragraphs (a) to (h) of section 2A of the AML Law:*

- (a) *the exchange of cryptoassets for fiat currency;*
- (b) *the exchange of cryptoassets for other cryptoassets;*
- (c) *the management, transfer, retention, and/or safekeeping, including custody, of cryptoassets, cryptographic keys or any others means which permit the exercise of control over cryptoassets;*
- (d) *the offer and/or sale of cryptoassets, including any initial offering; and*
- (e) *the participation in and/or provision of financial services related to the distribution, offer and/or sale of cryptoassets, including their initial offer.”*

*(CASP Definition)*

*The term “financial services related to the distribution, offer and sale of cryptoassets” set out in paragraph (e) of the CASP Definition is defined in section 2 of the AML Law as:*

*financial services related to the distribution, offer and sale of cryptoassets’ means the following services and activities in relation to cryptoassets:*

- (a) *Reception and transmission of orders;*
- (b) *Execution of orders on behalf of clients;*
- (c) *Dealing on own account;*
- (d) *Portfolio management;*
- (e) *Investment advice;*
- (f) *Underwriting and/or placing of cryptoassets on a firm commitment basis;*
- (g) *Placing of cryptoassets without a firm commitment basis; and*
- (h) *Operation of a multilateral system in which multiple third-party buying and selling trading interests in cryptoassets are able to interact in the system.*

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|   | <p>Section 61E(2)(a) of the AML Law requires that any CASPs that provide services or activities on a professional basis from Cyprus, must be registered irrespectively of whether they have been registered in another Member State in relation to the same services and activities.</p> <p>Section 61E(2)(b) of the AML Law provides that any CASPs that provide services or activities on a professional basis in Cyprus must also be registered unless they have already been registered in another Member State in respect of the same services and activities.</p>   |  |
|   | <p>The supervisory authority that regulates and registers CASPs, and maintains the Register of CASPs, is the Cyprus Securities and Exchange Commission (<b>CYSEC</b>).</p> <p>CYSEC has issued the Directive on Preventing and Combating the Laundering of Proceeds from Illegal Activities (Register of Cryptoasset Service Providers) (the CASP Register Directive) which sets out the requirements for registration of a CASP.</p> <p>CASPs must also comply with the CYSEC directive for the prevention and suppression of money laundering and terrorist financing (the CYSEC AML Directive).</p>  |  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>— <b>Exchange (buy/sell)</b></li> <li>— <b>Custody (hold)</b></li> <li>— <b>Borrowing/lending</b></li> <li>— <b>Yield/staking</b></li> </ul> | <p><b>Exchange (buy/sell)</b></p> <p>The exchange of cryptoassets for fiat currency and for other cryptoassets are regulated activities and fall under paragraphs (a) and (b) respectively of the CASP Definition above.</p> <p><b>Custody</b></p> <p>Yes.</p> <p>As per the CASP definition, this activity is a regulated activity and falls under paragraph (c).</p> <p><b>Borrowing/Lending</b></p> <p>At this moment of writing, there is no local legal framework that specifically regulates the borrowing/lending activity of cryptoassets. However, we note that the borrowing/lending of cryptoassets may incidentally involve the management, transfer, retention, and/or safekeeping, including custody, of cryptoassets, cryptographic keys or any others means which permit the exercise of control over cryptoassets which falls under paragraph (c).</p> |  |

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|   | <p><b>Yield/staking</b></p> <p>At this moment of writing, there is no local legal framework that regulates the yielding/staking activity of cryptoassets. To the extent that yielding/staking is undertaken by a third party on behalf of the owner of a cryptoasset then this activity may incidentally involve the management, transfer, retention, and/or safekeeping, including custody, of cryptoassets, cryptographic keys or any others means which permit the exercise of control over cryptoassets which falls under paragraph (c).</p>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>Article 5(6) of the CASPs Directive provides that CYSEC shall inform the applicant, or its authorized person, within six (6) months from the submission of a dully completed application, in relation to the registration or not of the applicant in the CASP Register.</p>   |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>Registration of a CASP includes the following charges:</p> <ul style="list-style-type: none"> <li>— €10,000 for the examination of an application. Successful applicants will not be required to pay an additional fee for the first year of their registration;</li> <li>— €5,000 for the purposes of renewal of registration per year.</li> </ul> <p>If the application is successful CYSEC's annual fees are waived for the first year, and amount to €5,000 per annum thereafter. Fees for notifying changes to CYSEC regarding a CASP's registration details would cost between €1,000-€5,000 depending on the type of notification required. Legal and other professional fees will be necessary.</p> |  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>At the time of writing, CYSEC has registered seven CASPs. Applicants will either meet or not meet the registration requirements specified in the AML Law and the CASP Register Directive. Therefore it is difficult to currently provide a probability percentage of success of registration of a CASP.</p>   |  |

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|  | <p>CYSEC has not and does not publish any information regarding the amount of applications it receives.</p>  |  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>The following highlights the key requirements of the CASP Register Directive:</p> <ul style="list-style-type: none"> <li>— Initial capital requirements: maintaining at all times a minimum equity capital which will be either (i) €50,000 (if only investment advice is offered), (ii) €125,000 in the event any other services are offered (except custody, underwriting or operation of an MTF) or (iii) €150,000 if custody/underwriting services are offered or if the CASPS operates a multilateral trading facility);</li> <li>— Capital adequacy requirements: must maintain at all times own funds equal to the greater of: (a) the amount of the initial capital as set out above and depending on the nature of its functions and activities or (b) one quarter (1/4) of the fixed overheads of the CASP during the previous year, reviewed annually;</li> <li>— Board Composition: the Board of Directors shall be composed of at least four persons who meet the requirements, two of whom shall direct the applicant’s business activities and two of whom shall be independent directors;</li> <li>— Competency: persons holding an administrative position must be honest, competent and of good repute. The beneficiaries of the CASP must also be of good repute and be able to maintain a strong financial position of the CASP;</li> <li>— Close links: any close links between the CASP and other natural or legal persons do not prevent CYSEC’s effective monitoring, evaluation and supervision of the CASP;</li> <li>— Governance: appropriate policies and procedures must be established and appropriate</li> </ul> |  |



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|  | <p>systems and controls should be in place in order to ensure compliance with the relevant directives issued by CYSEC, i.e. CYSEC AML Directive and CYSEC Register Directive;</p> <ul style="list-style-type: none"> <li>— Organisational arrangements: sound administrative and accounting procedures, internal control mechanisms, effective risk assessment procedures and effective control and safeguard arrangements for information processing systems should be established;</li> <li>— Staff: the persons employed by the CASP are to be honest, professional and possess the appropriate knowledge for the tasks assigned to them; and</li> <li>— Conflict of Interest: the performance of the staff should not be remunerated or evaluated in a manner that conflicts with its duty to act in the best interests of its customers and in particular does not make any arrangement in the form of remuneration, sales targets or otherwise, which could provide an incentive for its staff to engage in aggressive marketing practices for products or services.</li> </ul> |  |
|  | <p>As CASPs are obliged entities under the AML Law they must fully comply with their obligations stemming from the AML Law and the relevant directives issued by CYSEC.</p> <p>CYSEC may remove a CASP from the Register of CASPs if the registered CASP does not provide cryptoasset services for a continuous period of six (6) months.</p>   |  |

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# Czech Republic

| Question  | AML Regulation   | Financial Services Regulation  |
|---|--|--|
| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) was transposed into Czech Law by way of an amendment to the Czech AML Act (Act No. 253/2008 Coll., as amended) and covers persons providing services related to virtual assets.</p>  | <p>Financial services are regulated by a wide range of legal Acts and Regulations, in particular the Payment Services Act (Act no. 370/2017 Coll.) and the Capital Markets Act (Act no. 256/2004 Coll.).</p> <p>Authorisation and enforcement under financial services regulations are principally overseen by the Czech National Bank (CNB).</p> <p>At present no financial services regulation has been made in respect of cryptoassets.</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>— <b>Exchange (buy/sell)</b></li> <li>— <b>Custody (hold)</b></li> <li>— <b>Borrowing/lending</b></li> <li>— <b>Yield/staking</b></li> </ul> | <p>Yes, currently the only financial services regulation in respect of cryptoassets is under the Czech AML Act, i.e. in connection with anti-money laundering (<b>AML</b>) and counter-terrorist financing (<b>CTF</b>).</p> <p>A provider of any services related to virtual assets in the Czech Republic is considered an AML obliged entity and therefore regulated as such. All cryptoasset related service providers need to follow the rules on identification and due diligence of their clients, establish internal policies, report suspicious activities and other AML/CTF requirements.</p> | <p>According to the Czech National Bank (<b>CNB</b>) guidelines, the purchase, sale, or exchange of exchange tokens, such as cryptocurrencies, do not currently require any license or registration from the CNB. This is because exchange tokens are not considered money in the economic or legal sense, and these do not represent non-cash money nor electronic money.</p> <p>The same should also apply to custody of cryptocurrencies, provided that no portfolio management services are provided.</p> <p>No CNB license is required for borrowing/lending services, although it is currently unclear whether lending services provided to consumers would not require a specific consumer credit license.</p> <p>Providing services related to virtual assets in the Czech Republic on a continuous basis for profit would in any case require a general trade license issued by a Czech Trade Authority.</p> <p>Mining or validating transactions do not require a license.</p> <p>Certain other services, like trading with exchange tokens, derivatives or management of assets</p> |

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|   |  | <p>containing virtual assets would require a MiFID 2 or AIFM license. The situation is currently less clear with respect to stablecoins, as these may be considered as e-money regulated under the EU Directive EMD2 as implemented into Czech law. The Czech National Bank has not issued guidance or other regulatory standards assessing the nature of stablecoins linked to a Fiat currency, such as USDC or USDT, but admitted (without further explanation) that certain stablecoins may meet the criteria for e-money (in which case a license of a payment institution or a e-money institution may be required for payment related services).</p> <p>We are not aware of any virtual assets service providers in the Czech Republic that currently hold a financial license (i.e. a license other than the general trade license).</p> |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>No need to establish a license under AML regulations. A provider of virtual assets related services needs to follow the local AML rules with respect to services carried out in the Czech Republic.</p> | <p>Obtaining a simple trade license is a relatively easy and straightforward process. Once the standard corporate documents are gathered, it may be obtained within five business days.</p> <p>Obtaining a consumer credit license, payment institution/EMI license or another financial license (under MiFID II or AIFM) would take approx. 6 to 18 months.</p>  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>N/A</p>   | <p>Obtaining the trade license usually costs between EUR 2,000-3,000. The highest costs relate to obtaining and translating the corporate documents, if needed. The above estimate does not include the cost of establishment of a branch or a subsidiary that will likely be required. Establishment of a branch or subsidiary would usually cost up to EUR 10,000.</p> <p>The cost of obtaining a financial license (consumer credit license, payment institution/EMI license or other financial license (under MiFID II or AIFM)) if needed, will be considerably higher.</p>  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>N/A</p>   | <p>Obtaining a trade license is a straightforward exercise, however the Trade Authority will require that the service provider has a branch or subsidiary established in the</p>  |

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|  |  | <p>Czech Republic, unless the trade license is sought by an EU entity.</p> <p>Obtaining a financial license is relatively difficult and complicated, however if all conditions for issuing the license are met, the CNB must issue the license.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business? E.g., Compliance requirements and physical presence</b></p> | <p>Some requirements are set out below, however this is not an exhaustive list. It is necessary to:</p> <ul style="list-style-type: none"> <li>– take appropriate steps to identify and assess the risks of money laundering and terrorist financing which the business is subject to;</li> <li>– assess the ML/TF risks related to any new technologies prior to launch and take appropriate measures to manage and mitigate those risks;</li> <li>– undertake customer due diligence (CDD) when entering into a business relationship or occasional transactions;</li> <li>– apply more intrusive due diligence, known as enhanced due diligence (EDD), when dealing with customers who may present a higher; and</li> <li>– ML/TF risk. This includes customers who meet the definition of a politically exposed person (PEP).</li> </ul> | <p>There are currently no specific Czech regulations in relation to virtual assets and the CNB mostly follows the views of the EBA and other EU authorities in respect of cryptoassets regulations.</p> <p>As a general rule in the Czech Republic, a business activity provided in the territory of the Czech Republic on continuous basis requires a local license (at least a trade license) and an establishment (by way of a branch or subsidiary), unless the license is sought by an EU entity.</p> <p>There are no clear rules or guidelines to define activities as continuous in the Czech Republic. However, a business activity provided for six months or more in the Czech Republic is generally deemed a continuous activity.</p> |

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# Estonia

| Question   | AML Regulation  | Financial Services Regulation  |
|--|---|--|
| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>Assuming cryptoassets do not constitute securities or e-money, only the following services related to virtual currencies are regulated.</p> <p>Under Estonian law “<b>virtual currency</b>” means a value represented in digital form, which is digitally transferable, preservable or tradable and which natural persons or legal persons accept as a payment instrument, but that is not the legal tender of any country or funds for the purposes of Article 4(25) of Directive (EU) 2015/2366 of the European Parliament and of the Council on payment services in the internal market or a payment transaction for the purposes of points (k) and (l) of Article 3 of the same Directive.</p> <p>The following services are subject to specific regulation and require a license in Estonia from the Financial Intelligence Unit:</p> <ul style="list-style-type: none"> <li>– “<b>Virtual currency wallet service</b>” means a service in the framework of which keys are generated for customers or customers’ encrypted keys are kept, which can be used for the purpose of keeping, storing and transferring virtual currencies.</li> <li>– “<b>Virtual currency exchange service</b>” means a service with the help of which a person exchanges a virtual currency against a fiat currency or a fiat currency against a virtual currency or a virtual currency against another virtual currency.</li> <li>– “<b>Virtual currency transfer service</b>” means a service that allows a transaction to be conducted electronically at least in part through the virtual currency service provider in the name of the initiating party with the aim of moving the virtual currency to the recipient’s virtual currency wallet or virtual currency account, regardless of whether the initiator and the recipient are one and the same party or whether the initiator and recipient are using the same service provider.</li> </ul> | <p>Virtual currency services are not considered financial services (although they are equated to financial services in terms of AML/CTF requirements).</p> <p>Virtual currency services are not subject to financial supervision, however, it is likely that they will become subject to financial supervision within the next 1-2 years - possibly before the EU Regulation on Markets in Cryptoassets (<b>MiCA</b>) enters into force.</p> <p>In the summer of 2022, the Ministry of Finance introduced an updated draft of a new national law which would regulate both crowdfunding services (incl. those which are not regulated under the respective EU regulation) and virtual currency services. If the draft law would be adopted, virtual currency services would be considered financial services and would become subject to supervision by the Estonian Financial Supervision and Resolution Authority (<b>EFSRA</b>). However, given that MiCA has now been agreed upon, it is uncertain if this national law will be adopted as proposed (i.e. if it will cover virtual currency services).</p> |



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|  | <ul style="list-style-type: none"> <li>– In addition, the organisation, in the name or on behalf of an issuer of virtual currency, <b>of a public or targeted offering or sale related to the issue</b> of such currency, or the provision of any related financial services, is regarded as a virtual currency service.</li> </ul>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>    | <p>It is possible to establish a company in a day (with an Estonian ID, e-residency or electronic ID of few other EEA states). Otherwise, registration may take a week or so after all necessary documents have been compiled.</p> <p>Regulated virtual currency service providers are required to have a payment account opened in a credit institution, e-money institution or payment institution that has been established in Estonia or in an EEA state that provides cross-border services in Estonia or has established a branch in Estonia – opening such an account can take several weeks.</p> <p>The Financial Intelligence Unit has up to 120 days to process the license application after receiving all the necessary information and documents (in due form). In practice the application may take 6 months.</p> | <p>As a rule, EFSRA has 6 months to process the license application, however, it may at times take longer and additional time should be reserved for preparing the documentation. In total, the process approximately takes a year.</p>  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                   | <p>The state fee for applying for the licence to provide the virtual currency services listed above, is EUR 10,000.</p> <p>Additional costs include: the commission of a financial auditor and internal auditor, state duties, notary fees, and translation costs. If professional legal services are also commissioned to prepare AML/CTF and other internal procedures, these costs may amount to EUR 8,000-15,000.</p>   | <p>In case cryptoassets constitute securities, e-money or other regulated financial services, the state duty for applying for a license from the EFSRA is EUR 1,000.</p> <p>Additional costs include: the commission of the financial auditor and internal auditor, state duties, notary fees and translation costs. professional legal services are also commissioned to prepare the application and internal procedures, such additional costs may amount to EUR 25,000-50,000 depending on the level on external assistance needed.</p> |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                       | <p>After the latest requirements entered into force in the spring of 2022, only one new company has obtained a license (as of November 2022).</p>   | <p>Difficult to assess.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> | <p>The service provider must, most notably:</p> <ul style="list-style-type: none"> <li>– have a payment account opened in a credit institution, e-money institution or payment institution that has been established in Estonia or in an EEA state that provides cross-</li> </ul>  | <p>In case cryptoassets constitute securities, e-money or other regulated financial services, in addition to the requirements which apply to virtual currency services (as described in the left column), additional internal procedures must</p>  |

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| <p><b>E.g., Compliance requirements and physical presence</b></p> | <p>border services in Estonia or has established a branch in Estonia;</p> <ul style="list-style-type: none"> <li>– appoint a financial auditor (for auditing annual accounts);</li> <li>– appoint an internal auditor;</li> <li>– prepare and submit a 3-year business plan;</li> <li>– prepare and implement AML/CTF procedures and procedures for applying international sanctions;</li> <li>– prepare detailed IT description;</li> <li>– management board members must have higher education and at least 2 two years of relevant experience, other fit &amp; proper requirements applicable to board members and owners;</li> <li>– the registered seat, the seat of the management board and place of business must be in Estonia;</li> <li>– share capital of EUR 100,000-250,000 (depending on the services provided) must be paid in in cash upon establishment; and</li> <li>– additional own funds requirements (depending on the services provided and the volumes).</li> </ul> | <p>be prepared and applied, extensive requirements apply to provision of the specific financial service as well as reporting obligations to the EFSRA, etc.</p> |
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# France

| Question  | AML Regulation  | Financial Services Regulation  |
|---|---|--|
| <p><b>How is crypto regulated?</b></p>  | <p>The competent jurisdiction for AML issues is the French Prudential Supervision and Resolution Authority (<i>Autorité de contrôle prudentiel et de résolution</i>) (<b>ACPR</b>).</p> <p>However, during the registration process of a digital asset provider, the French Financial Markets Authority (<i>Autorité des marchés financiers</i>) (<b>AMF</b>) is its only point of contact.</p>   | <p>The competent jurisdiction is the French Financial Markets Authority (<i>Autorité des marchés financiers</i>) (<b>AMF</b>).</p> |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>Article L. 54-10-3 of the French Monetary and Financial Code (<b>MFC</b>) provides that an applicant who wishes to provide the following services in France:</p> <ul style="list-style-type: none"> <li>– custody of digital assets or access to digital assets on behalf of third parties;</li> <li>– purchase or sale of digital assets in legal tender;</li> <li>– exchanging digital assets for other digital assets; or</li> <li>– managing a trading platform for digital asset,;</li> </ul> <p>must (i) register with the AMF as a digital asset service provider (<i>Prestataire sur actifs numériques</i>) (<b>PSAN</b>) and is subject to articles L. 54-10-1 and D. 54-10-2 et seq. of the MFC and (ii) comply with the anti-money laundering and counter-terrorist financing (<b>AML/FT</b>) obligations in accordance with the provisions of articles L. 561-1 et seq. and R. 561-1 et seq., L. 562-1 et seq. and R. 562-1 et seq. of the MFC.</p> <ul style="list-style-type: none"> <li>– <b>(Staking):</b><br/>Pursuant to article 12.3 of the position 2020-07 of the AMF (<b>Position</b>):<br/>“<i>Staking</i>” activity may consist in the fact for digital assets holders of locking up their digital assets, in <b>exchange</b> for consideration, within a wallet (or other medium) for the purpose of supporting a distributed ledger technology using a « proof of stake » mechanism or equivalent validation mechanisms.”<br/>Therefore, depending on the type of services offered by the provider in connection with this activity, it may constitute a digital asset service within the meaning of article L. 54-10-2 of the MFC and/or a payment service within the meaning of article L. 314-1 of the MFC, and would entail for the service provider to be obtain a registration or licensing.</li> <li>– Regarding the borrowing/lending activity (<b>Lending</b>):<br/>Pursuant to article 12.3 of the position 2020-07 of the AMF (<b>Position</b>):<br/>“<i>Cryptolending</i>” may consist in the fact for a service provider to make digital assets available to another person or entity who agrees to return them to the provider at the end of a specified period of a time”.<br/>Depending on the type of services offered by the provider in connection with this activity, it may constitute a digital asset service within the meaning of Article L. 54-10-2 of the MFC and/or a payment service within the meaning of article L. 314-1 of MDC, and would mean that the service provider needs to complete registration or obtain a license.</li> </ul> <p><b>Please note</b> that for both the Staking and Lending activities, the AMF recommends providing it with a legal analysis to determine whether one (or both) of the two abovementioned regimes are applicable to their activity.</p> |  |

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| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  | <p>Establishing a PSAN may take between 4 to 6 months, provided that there are no special circumstances that could possibly extend this period.</p>   |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>   | <p>For the preparation by our team of the filing with the AMF, including all the documents allowing a registration as a PSAN, the applicants costs are likely to total between 40.000K€ and 50.000K€.</p>   |  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>   | <p>The probability of obtaining a licence in France is 70%.</p>   |  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>In accordance with article L. 561-2, paragraph 7 bis, of the MFC, PSAN referred to in paragraphs 1 to 4 of article L. 54-10-2 of the same code are subject to the AML/FT obligations set forth in Chapter I of Title VI of Book V of the MFC.</p> <p>In addition, PSAN are subject to obligations relating to the freezing of assets as set out in Chapter II of Title VI of Book V of the MFC.</p> <p>Please note that all obligations relating to AML/FT regulations must be met and be complied with by the registered PSAN even though he does not have any physical presence in France.</p> | <p><b>– Prohibition on canvassing activities</b></p> <p>Article L.341-1 of the MFC defines the act of canvassing as any unsolicited contact (including physically going to places not intended for the marketing of the digital asset (<b>DA</b>) or service on DA) by any means whatsoever, with a specific natural or legal person with a view to obtaining, from him, an agreement, in particular on:</p> <p><i>“8° The carrying out of a transaction on one of the digital assets mentioned in article L. 54-10-1, in particular in the context of a public offering of tokens within the meaning of article L. 552-3;</i></p> <p><i>9° The provision of a service on digital assets within the meaning of article L. 54-10-2.” (we translated).</i></p> <p>Article 341-10 MFC specifies the list of products that may not, as a matter of principle, be canvassed, which are:</p> <p><i>“6° Digital assets mentioned in Article L. 54-10-1 of this code, except when the canvassing activity concerns the provision of a service on digital assets within the meaning of article L. 54-10-2 by a service provider approved under the conditions provided for in article L 54-10-5 or on tokens offered as part of an offer to the public that has obtained the visa provided for in article L. 552-4.” (we translated).</i></p> <p>Thus, any act of solicitation relating to a service on AN or ANs is in principle prohibited.</p> |

However, article L. 341-10, 6° of the MFC specifies that:

*“[...] when the canvassing activity relates to the provision of a service on digital assets within the meaning of Article L. 54-10-2 by a service provider approved under the conditions provided for in Article L. 54-10-5 or on tokens offered as part of an offer to the public that has obtained the approval provided for in Article L. 552-4.” (we translated).*

Thus, a company will only be able to canvass potential customers for its DAs in two situations:

1. obtaining **approval** as a PSAN from the AMF (different procedure than a simple registration); or
2. obtaining a visa from the AMF as referred to in article L.552-4 of the MFC concerning its DA offer.

In addition, only PSAN approved in accordance with article L. 54-10-5 of the MFC may carry out any direct or indirect advertising with the aim of inviting a person, by means of a response or contact form, to request or provide additional information, or to establish a relationship with the advertiser, with a view of obtaining the advertiser’s agreement to carry out a transaction relating to the provision of digital asset-based services for which they are approved (L. 222-16-1 of the French Consumer Code).

## **II – Obligation on physical presence**

*Article 721-1-1 of the AMF General Regulation (règlementation générale de l’AMF) (RGAMF) provides:*

*“Pursuant to article L. 54-10-3 of the French Monetary and Financial Code, a digital asset service is considered to be provided in France when it is provided by a digital asset service provider having facilities in France or when it is provided at the initiative of the digital asset service provider to customers residing or established in France.” (we underlined).*

Article 721-1-1 of the RGAMF also specifies that the PSAN is providing a service in France when certain non-exhaustively listed criteria are met.

Thus, pursuant to article 3.3 of the Position, providing that the PSAN is established in another Member State of the European Union (or in a State party to the Agreement on the European Economic Area), the registration does not require:

1. an establishment in France, neither in the form of a subsidiary nor in the form of a branch; and/or
2. the permanent presence of representatives of the PSAN, domiciled in France.

In the absence of a European passport, the PSAN will have to register in France if it falls within the scope of the mandatory registration.

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# Germany

| Question  | AML Regulation  | Financial Services Regulation  |
|---|---|--|
| <p><b>How is crypto regulated?</b></p>  | <p>The Money Laundering Act (<b>GwG</b>) and the Regulation on Enhanced Duties of Care concerning the Transfer of Crypto Assets (<b>KryptoWTransferV</b>) are the relevant AML regulations.</p>   | <p>Most crypto assets are regulated as financial instruments in Germany. Therefore, certain activities are considered financial services that require permission from the German Federal Financial Supervisory Authority (<b>BaFin</b>). In particular, the German Banking Act (<b>KwG</b>) and the Securities Institutions Act (<b>WpIG</b>) are crucial.</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>AML obligations must be complied with if the applicant is located in Germany and if it is a regulated institution (section 2 (1) GwG). In all other cases, limited AML requirements can apply, for example depending on the value of the cryptoassets or in case of NFTs which qualify as art.</p> | <ul style="list-style-type: none"> <li>– Exchange (buy/sell) <ul style="list-style-type: none"> <li>Yes, the exchange of crypto assets usually requires permission from BaFin as such activity mostly qualifies as proprietary trading or brokerage or operation of a MTF, as the case may be.</li> </ul> </li> <li>– Custody (hold) <ul style="list-style-type: none"> <li>Yes, a custody license needs to be obtained from BaFin. Custody of crypto assets as a service for third parties, as well as managing third party rights deriving from crypto assets, require a BaFin licence. Also, services that provide digital storage of private keys or custody of physical data carriers, on which private keys are stored, constitute regulated activities. Companies that offer storage space only (e.g., webhosting or cloud-services), do not require a BaFin license if they do not explicitly offer storage of private keys. Manufacturers and sellers of hardware or software for self-custody do not require a license if they do not have access to the crypto assets stored by users.</li> </ul> </li> <li>– Borrowing/lending <ul style="list-style-type: none"> <li>There are structures which do not require a license, but there is no guidance from the regulator yet.</li> </ul> </li> <li>– Yield/staking <ul style="list-style-type: none"> <li>There are structures which do not require a license, but there is</li> </ul> </li> </ul> |



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|  |  | no guidance from the regulator yet.  |
|  | Many of these restrictions will also apply under the EU MiCA regulation. |  |
| <b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b>   |  | Obtaining one or more of the aforementioned licenses typically takes 6 to 18 months.   |
| <b>What would be the approximate overall cost of obtaining a licence?</b>  |  | Depending on the type of license required, plus costs for, in particular, IT and HR.   |
| <b>What is the probability (%) of success in obtaining a licence?</b>  |  | High. The biggest roadblocks (in our experience) are: <ul style="list-style-type: none"> <li>– No sufficient IT.</li> <li>– Unsuccessful ownership control procedure.</li> <li>– Lack of qualified management.</li> </ul>  |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br>E.g., Compliance requirements and physical presence |  | There are a number of compliance requirements, in particular the requirement to have a physical presence in Germany (except in the case of EU passporting) and the requirement to demonstrate to BaFin a certain amount of initial capital and management reliability. EU consumer protection laws need to be complied with. |

## Contact – CMS

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# Gibraltar

| Question  | AML Regulation  | Financial Services Regulation   |
|---|---|---|
| <p><b>How is crypto regulated?</b></p>  | <p>The Gibraltar Financial Services Commission (the <b>GFSC</b>) must maintain a register of relevant financial businesses that receive “<i>proceeds in any form from the sale of tokenised digital assets involving the use of DLT</i>” and “<i>persons that, by way of business, exchange, or arrange or make arrangements with a view to the exchange of virtual assets for money, money for virtual assets or one virtual asset for another</i>”.</p> <p>The relevant legislation is the Proceeds of Crime Act 2015 and its subsidiary legislation, the Proceeds of Crime Act 2015 (Relevant Financial Business) (Registration) Regulations 2021.</p> | <p>Financial Services are regulated under the Financial Services Act 2019 (the <b>FS Act</b>).</p> <p>The FS Act and its subsidiary regulations set out the regulatory framework for Gibraltar’s financial services, markets and fiduciary services regime, and the listing of securities, prospectuses and takeovers. The FS Act and its subsidiary regulations have been influenced by European Union policy and legislation and certain regulatory regimes regulated by the FS Act and its subsidiary regulations.</p> <p>Section 5(1) of the FS Act defines a ‘regulated activity’ as an activity that is (i) of a kind specified in Schedule 2 to the Act; (ii) carried on by way of business; and (iii) it relates to any of the items listed in section 5(2) of the Act. Value belonging to another which is stored or transmitted by means of a database system is included in section 5(2)(o) of the Act and is set out in further detail in Part 16 of Schedule 2 to the Act.</p> <p>Therefore, carrying on by way of business, in or from Gibraltar, the use of distributed ledger technology for the storage or transmission of value belonging to another is a ‘regulated activity’.</p> <p>Since the 1st January 2018, any firm carrying out by way of business, in or from within Gibraltar, the use of distributed ledger technology (<b>DLT</b>) for storing or transmitting value belonging to other, needs to be authorised by the GFSC as a DLT provider. The Regulations apply to activities not subject to regulation under any other regulatory framework. Firms and activities that are subject to another regulatory framework will continue to be regulated under that framework.</p> |
| <p>Please find below a recap on the Gibraltar offering in the crypto space:</p> <ol style="list-style-type: none"> <li>1. VASPs – Token Issuers (ICO);</li> </ol> |   |   |

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|   | <ol style="list-style-type: none"> <li>2. VAAPs – Market Makers and OTC Desks (Virtual Asset Arrangement Providers);</li> <li>3. DLT Licences.</li> </ol> <p>We also offer:</p> <ol style="list-style-type: none"> <li>4. Crypto Foundations;</li> <li>5. Crypto Funds.</li> </ol>  |   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>In order to carry out a non-security token sale from Gibraltar, the issuer first needs to be registered as a Virtual Asset Service Provider (<b>VASP</b>) with the Gibraltar Financial Services Commission (<b>GFSC</b>) under the Proceeds of Crime Act 2015 (Relevant Financial Business) (Registration) Regulations 2021.</p> <p>These Regulations apply to entities issuing tokens from Gibraltar and impose an obligation to be registered with the GFSC for the purposes of anti-money laundering, counter terrorist financing and counter proliferation finance supervision, prior to selling any tokens from Gibraltar.</p> <p>In accordance with the <b>Proceeds of Crime Act 2015</b>:</p> <p>“A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.”</p> <p>“Where a person undertakes relevant financial business and that person –</p> <ol style="list-style-type: none"> <li>(a) knows, suspects or has reasonable grounds to suspect that another person is engaged in money laundering, or is attempting to launder money;</li> <li>(b) the information or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, or during the application of customer due diligence measure; and</li> <li>(c) he does not disclose the information or other matter to the Gibraltar Financial Intelligence Unit as soon as is reasonably practicable after it comes to his attention, he is guilty of an offence.</li> </ol> | <p>Persons carrying on regulated activities by way of business in Gibraltar are prohibited unless the person is either an authorised person or an exempt person. The DLT Regulations were made under the FS Act and set out, among other things, the application process for obtaining the relevant permission to carry out ‘DLT Provider’s business’ (as defined in the DLT Regulations), the ongoing obligations of a ‘DLT Provider’ (as defined in the DLT Regulations) and the regulatory principles that a DLT Provider must comply with.</p> <p>Exchanges, trading venues, e-wallets and/or other forms of cryptocurrency service platforms can be structured to operate differently but if operators of such platforms are storing, transmitting or facilitating the transmission of cryptocurrencies or other virtual assets belonging to its customers, then it is likely that they will fall within the scope of the DLT Regulations.</p> <p>Borrowing/lending will depend on the lending agreement. In cases where there is clearly a loan arrangement and no right to the assets lent (repayment can be in another form), it should not be considered transmitting. The borrower will own the assets and will not be holding for another – when the agreement is signed, the lender will be sending assets contracted for by the borrower so there should be no transmission of value belonging to another.</p> <p>If lending by way of business, we may need to consider other regulations/licensing requirements.</p> <p>When analysing yield/staking, one of the main issues we consider is whether the tokens could be deemed ‘Units in collective investment undertakings’, or whether the arrangement could be deemed a ‘Collective Investment Schemes’ (<b>CIS</b>) and/or an ‘Alternative</p> |

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| <p>In relation to cryptocurrency/virtual asset services and for the purposes of the above, “relevant financial business” means a business engaging in one of the following activities:</p> <ul style="list-style-type: none"> <li>(d) undertakings that receive, whether on their own account or on behalf of another person, proceeds in any form from the sale of tokenised digital assets involving DLT or similar means of recording a digital representation of an asset; and</li> <li>(e) persons that, by way of business, exchange, or arrange to make arrangements with a view to the exchange of: <ul style="list-style-type: none"> <li>(i) virtual assets for money;</li> <li>(ii) money for virtual assets;</li> <li>(iii) one virtual asset for another.</li> </ul> </li> </ul> <p>The GFSC is therefore required to maintain a register of relevant financial businesses that receive “<i>proceeds in any form from the sale of tokenised digital assets involving the use of DLT</i>” and “<i>persons that, by way of business, exchange, or arrange or make arrangements with a view to the exchange of virtual assets for money, money for virtual assets or one virtual asset for another</i>”. As such, an entity wishing to create and sell its own tokens from its inventory, or carry out business in relation to the exchange of virtual assets, would be required to register with the GFSC. Successful registration involves implementing robust KYC mechanisms and being listed on the record of registered entities (a public record). This often gives comfort to investors and makes Gibraltar an attractive option for entities wishing to issue tokens to raise capital in support of the development of a new product.</p> | <p><i>Investment Funds’ (an AIF)</i>. Kindly note that there is very little by way of legal or regulatory guidance on this. In our view, <b>provided</b> you include your staking product within your DLT Provider application submission, you should be able to provide the relevant services via the Gibraltar entity once it receives authorisation.</p> |
| <p>A Gibraltar registered entity which holds or wishes to obtain either a DLT License or VASP registration is not able to passport their services without authorisation of the jurisdiction where the services will be carried out. Gibraltar entities which carry out activities in accordance with the Financial Services (Passport Rights and Transitional Provisions) (EU Exit) Regulations 2020, are granted passporting rights to the UK Market. However, DLT Firm’s do not fall within scope and therefore are not able to passport their services to any jurisdiction outside of Gibraltar.</p> <p>To achieve promotion or sales of services in any jurisdiction, independent advice would need to be sought in each jurisdiction.</p>  |   |

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| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>Applications under the current regime take between six to eight weeks.</p>   | <p>Processing times for DLT Licence applications will vary between seven months to nine months, depending on the applicants' activities and business operations.</p>   |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>The application fee is £2,500.<br/>Legal and other professional fees will be necessary.</p>  | <p>The initial application assessment form requires a non-refundable £2,000 fee to the GFSC. Within 2 weeks of receiving the form, the relevant team at the GFSC will carry out the initial assessment and categorise the business into one of three categories.</p> <p>These fees are as follows:</p> <ul style="list-style-type: none"> <li>– Category 1 - £10,000 (of which £8,000 would remain payable following the payment of the £2,000 initial assessment fee);</li> <li>– Category 2 - £20,000 (of which £18,000 would remain payable); and</li> <li>– Category 3 - £30,000 (of which £28,000 would remain payable).</li> </ul> <p>Legal and other professional fees will be necessary.</p> |
|   | <p>One of the key benefits is legal, regulatory and taxation certainty in what can often still be an uncertain business globally. Gibraltar has established a robust DLT regulatory framework which has been in place since 2018.</p> <p>For token sales (which generally fall outside of the DLT licensing framework) Gibraltar has a robust VASP registration system in place which connects project principles directly with the regulator to ensure a high standard of AML and KYC checks. Although the token issuing entity is not licensed by the regulator, this registration/approval process gives comfort both to investors and third-party service providers which are necessary to operate and interact with the traditional financial world (such as banks).</p> |  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>We have a high success rate in obtaining authorisation and registering businesses with the GFSC for the purpose of conducting a token sale in Gibraltar. Historically, the success rate has been around 95%.</p>   | <p>We note that obtaining a DLT Licence is a more stringent process than that of becoming a registered VASP (ICO or VAAP) in Gibraltar. However, our team has vast experience in this space and have a great professional relationship with the regulator. The success rate is around 65%-75%.</p> <p>It is also important to note that during the pre-application stage with the regulator, the firm will be able to obtain a good indication of their chances of success. Should the applicant have a successful pre-application meeting with the GFSC, the success rate will be around 95%.</p>   |
|   | <p>These are some of the companies that hold a DLT Licence in Gibraltar: eToro, Huobi, LMAX, Xapo, Bitso, Currency.com and CEX.io.</p>  |  |

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| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> <p><b>E.g., Compliance requirements and physical presence</b></p> | <p>This registration is focused on compliance and in particular anti-company laundering (AML) and counter-terrorist financing (CTF). Amongst other requirements, the GFSC will need to be satisfied that the applicant (not an exhaustive list):</p> <ul style="list-style-type: none"> <li>– complies with the applicable AML/KYC legislations and requirements;</li> <li>– has implemented appropriate AML/CTF procedures;</li> <li>– creates an appropriate and complaint onboarding system; and</li> <li>– undertakes customer due diligence (CDD) and enhanced due diligence (EDD) when required.</li> </ul> <p>A Gibraltar token issuer can be set up as a regular company limited by shares or as a company limited by guarantee.</p> <p>The company will require a locally based MLRO who is attached to the company by way of employment or directorship.</p>  | <p>A Gibraltar DLT Provider will be required to comply with the wider rules and guidance under the FS Act. A DLT Provider will require a physical presence and a footprint in the jurisdiction. This will include an office space and a handful of employees (depending on the nature of the firm's operations in or from Gibraltar).</p> |
|  | <p>Gibraltar has a territorial basis system of taxation. Companies are only taxed on profits accruing in or deriving from Gibraltar. “<i>Accrued in and derived from</i>” is defined by reference to the location of the activities that give rise to the profits. In any case, the corporate tax rate for taxable profits is just 12.5%.</p> <p>Personal income tax is charged at an effective rate of 27% (effective for two years from 1 July 2022 as a Covid response measure announced on 28 June 2022 – it will return to 25% thereafter) on the first £500,000 of income. Gibraltar does not levy any capital gains tax, inheritance tax or tax on passive income. In addition, Gibraltar offers the Category 2 (High Net Worth) Individuals (<b>Cat 2</b>) and the High Executive Possessing Specialist Skills (<b>HEPSS</b>) tax rules to eligible persons. Cat 2 individuals only pay tax on the first £118,000 of assessable income. The tax payable by a HEPSS is limited to the first £160,000 of earned income.</p> |   |

## Contact – Hassans

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# Greece

| Question  | AML Regulation  | Financial Services Regulation   |
|---|---|---|
| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) extended the Fourth Money Laundering Directive (<b>4MLD</b>) regime to “providers engaged in exchange services between virtual and fiat currencies” and to “custodian wallet providers”.</p> <p>The 5MLD was transposed into Greek national law via Law 4734/2020, which amended Law 4557/2018 (<b>AML Law</b>), which is the main AML law in Greece.</p>   | <p>Financial services are regulated mainly under Law 4514/2018 (<b>MiFID II Law</b>) and other legislation, most notably Law 4021/2011 (the <b>EMD II Law</b>) and Law 4537/2018 (the <b>PSD II Law</b>).</p> <p>Authorisation and enforcement under the aforementioned regime are principally overseen by the Bank of Greece (<b>BoG</b>) or the Hellenic Capital Market Commission (<b>HCMC</b>).</p> <p>At present there is no legislation specifically for cryptoassets.</p>  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>The only regulation in respect of cryptoassets under Greek Law stems from the Anti-Money Laundering (<b>AML</b>) and Counter-Terrorist Financing (<b>CTF</b>) Law and its delegated Decisions. Pursuant to Law 4557/2018, the HCMC is the AML and CTF supervisor for certain cryptoasset services providers in Greece.</p> <p>Certain cryptoasset service providers are prohibited from operating in Greece unless they are registered with the HCMC. The HCMC then supervises their compliance with the applicable legal regime.</p> <p>In 2020, the HCMC became the AML and CTF supervisor for the following cryptoasset service providers under Greek Law:</p> <ul style="list-style-type: none"> <li>(a) providers engaged in exchange services between virtual currencies (digital representations of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically) and fiat currencies; and</li> <li>(b) custodian wallet providers (entities that provide services to safeguard private cryptographic</li> </ul> | <p>Strictly speaking, cryptoassets and cryptoasset services are not regulated in Greece.</p> <p>Furthermore, neither the HCMC nor the BoG have published any guidance regarding the application of existing financial services regulation in respect of cryptoassets.</p> <p>However, in principle, cryptoassets may qualify as financial instruments (Law 4514/2018, the MiFID II Law), electronic money (Law 4021/2011, the EMD II Law) or even “funds” (within the meaning of Article 4 of Law 4537/2018, the PSD II Law), in case the elements of the relevant definitions are satisfied. But neither the HCMC nor the BoG have mandated specific criteria discerning which cryptoassets should be treated as financial instruments, electronic money, funds etc.</p> |



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|   | keys on behalf of its customers, to hold, store and transfer virtual currencies).  |  |
| <b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b>  | The aforementioned providers are required to register with the HCMC in order to provide such services in Greece. Following such registration, they are listed on the relevant HCMC register. The HCMC informs the applicant within two (2) months from the submission of the complete application (submission of all the necessary information and documents), whether the registration took place or not.   | No specific license is required from a Financial Services Regulation perspective regarding cryptoassets, unless they qualify as financial instruments, electronic money or funds. In that case the cryptoasset business will need to obtain the relevant license under the MiFID II, EMD II, PSD II Law. However, obtaining such a license does not pertain to the crypto nature of the assets <i>per se</i> . |
| <b>What would be the approximate overall cost of obtaining a licence?</b>   | The aforementioned providers are required to pay to the HCMC a one-time fee of €1,500 for the submission of the application and the processing of their application and an annual contribution of €1,000 to cover supervision costs. The one-time fee must be paid prior to the submission of the application.   | N/A  |
| <b>What is the probability (%) of success in obtaining a licence?</b>   | The HCMC has not released any relevant data or information. However, a well-advised applicant with a high-quality application should expect their application to be approved.  | N/A  |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?<br/>E.g., Compliance requirements and physical presence</b> | The Providers should comply with all the AML compliance requirements as provided for in the Greek Law 4557/2018 (AML-CTF provisions) and its delegated Decisions.<br><br>With regards to physical presence, it depends on the country of origin of the cryptoasset business: i.e., economic operators who are already authorised to carry out business activities in one EU Member State are able to provide their services in Greece without having to become established in Greece, under the Freedom of Services principle.<br><br>EU consumer protection laws also need to be complied with. | N/A  |

## Contact – Christos Ntallas & Co

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# Ireland

| Question   | AML Regulation  | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>Ireland does not have a regulatory framework that deals expressly with the regulation of cryptoassets, however, some or all of these named activities may fall within the scope of Ireland’s anti-money laundering framework, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (the <b>CJA 2010</b>). The CJA 2010 transposes the EU’s Fifth Anti-Money Laundering Directive 2018/843 (<b>5MLD</b>) into Irish law, though the amendments, introduced under the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021, go further than required by the MLD5.</p> <p>The amendments apply broadly to “<b>virtual asset service providers</b>” (<b>VASPs</b>), a term which generally includes a person who by way of business carries out one or more of the following activities for, or on behalf of, another person:</p> <ul style="list-style-type: none"> <li>(a) exchange between virtual assets and fiat currencies;</li> <li>(b) exchange between one or more forms of virtual assets;</li> <li>(c) transfer of virtual assets, that is to say, conduct a transaction on behalf of another person that moves a virtual asset from one virtual asset address or account to another;</li> <li>(d) custodian wallet provider;</li> <li>(e) participation in, and provision of, financial services related to an issuer’s offer or sale of a virtual asset or both.</li> </ul> <p>Cryptoasset activities such as exchange of assets, custody, borrowing/lending and yield/staking could all fall within the activities listed (a) to (e), above.</p> <p>Significantly, under the ‘VASP’ regime, a person falling within the definition of a VASP must not only comply with anti-money laundering obligations but must also register with the Central Bank of Ireland (<b>Central Bank</b>). This registration is not merely a formality and the Central Bank may refuse a registration</p> | <p><b>General</b></p> <p>Apart from the anti-money laundering regulation of VASPs under the CJA 2010, Ireland does not have a domestic legislative regulatory regime specific to cryptoasset businesses, including exchanges, custody, borrowing/lending or yield/staking of cryptoassets. However, depending on the nature of the activities, they could fall under existing Irish financial services regulatory regimes.</p> <p><b>Exchange activities</b></p> <p><a href="#">Irish Payment Services Regulations</a></p> <p>It is possible that the operator of a cryptocurrency exchange who settles payments of fiat currency between the buyers and sellers of cryptocurrency could be regarded as being engaged in the activity of money transmission/remittance, triggering the application of the European Union (Payment Services) Regulations 2018 (<b>Irish Payment Services Regulations</b>).</p> <p><a href="#">Irish MiFID Regulations</a></p> <p>Depending on how an exchange is structured, and the nature of the tokens being made available on the exchange, a cryptocurrency exchange may fall within the scope of existing financial regulation, such as the European Union (Markets in Financial Instruments) Regulations 2017 (<b>Irish MiFID Regulations</b>). Other cryptocurrency exchanges, by contrast, may be structured and operate in a way that falls outside of the regulated space in the EU.</p> <p><b>Borrowing/lending activities</b></p> <p><a href="#">Retail Credit Firm/Credit Servicing Firm/Moneylender Authorisation</a></p> <p>Under the Central Bank Act 1997 a person who meets the definition of a retail credit firm, or who performs the regulated activity of ‘credit servicing’, may be required to obtain authorisation from the</p> |

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|   | <p>application. The registration procedure itself involves a number of steps, which are set out on the Central Bank's website.</p>   | <p>Central Bank. Similarly, under the Consumer Credit Act 1995 a person who meets the definition of a moneylender, may be required to obtain authorisation from the Central Bank.</p> <p>However, there may be strong arguments as to why these particular regimes would not apply in the context of the proposed activity of borrowing/lending.</p> <p><a href="#">Credit Reporting</a></p> <p>The Credit Reporting Act 2013 establishes a Central Credit Register and imposes obligations, primarily related to credit reporting and credit checking, on certain providers of credit.</p> <p>Again, there may be strong arguments as to why this particular regime would not apply in the context of the proposed activity of borrowing/lending.</p> |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>A general timeframe for registration of a VASP is not available from the Central Bank. However, once application documents are at an advanced stage, a pre-application meeting can be sought with the Central Bank to discuss registration. Timelines specific to the Applicant may be discussed at this stage.</p> <p>While only a rough estimate, assuming the application documents are in order, we envisage that the process could take a minimum of 3 months.</p> | <p>N/A.</p>  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>The Central Bank does not charge an application fee, however, registered VASPs will be subject to a supervisory levy which will be driven by the level of resources applied to their supervision.</p> <p>Legal and other advisory costs will depend on the level of input required. In addition, we envisage that there would be set-up costs given that the Central Bank will expect to see a physical presence located (discussed below).</p>                         | <p>N/A.</p>  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>As at mid-May 2022, the Central Bank advised 80% of complete applications received by the Central Bank have been assessed, and those Applicants have been provided with the Central Bank's observations on their applications and proposed AML frameworks. With respect to the remaining 20% of applications, the Central Bank advised they were either</p>   | <p>N/A.</p>  |

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|  | <p>incomplete, or have only been recently submitted.</p> <p>As of 20 January 2023 (the latest update of the register by the Central Bank), there are five entities registered as a VASP in Ireland.</p>  |             |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> <p><b>E.g., Compliance requirements and physical presence</b></p> | <p>The Central Bank will expect to see a physical presence located in Ireland and for there to be at least one employee in a senior management role located physically in Ireland, to act as the contact person for engagement with the Central Bank.</p> <p>The Central Bank’s Instruction Manual and Guidance Note for entities seeking to register as a VASP states as follows: <i>“An Applicant Firm seeking registration as a VASP must be acting in the State. In general, the Central Bank interprets “acting in the State” to mean a corporate body constituted under Irish law, or a branch, or agent, or a sole trader, which is operating its virtual asset services from an establishment, or via a physical presence, in Ireland.”</i> It is likely that the Central Bank will take a case-by-case approach as to whether an entity is acting in the State.</p> <p>On 11 July 2022, the Central Bank published a bulletin in relation to VASPs, seeking to assist applicant firms to strengthen both their applications for registration and their Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Frameworks. The Central Bank states that it identified, in the vast majority of applications, a lack of understanding and compliance with key AML/CFT obligations, in addition to significant control weaknesses. The lack of compliance, coupled with control weaknesses, resulted in a significant number of the applicant firms not being able to demonstrate to the Central Bank that they could meet their AML/CFT obligations.</p> | <p>N/A.</p> |

## Contact – McCann Fitzgerald LLP

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# Israel

| Question   | AML Regulation   | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>The Anti-Money Laundering Order (Obligations to Identify, Report and Manage Registrations of Financial Assets Service Providers and Credit Service Providers for the Prevention of Money Laundering and Terrorist Financing) (Amendment), 5721-2021, includes specific AML and KYC obligations for providers of exchange and custody services related to cryptoassets and for providers of non-bank credit.</p> | <p>Exchange and custody for cryptoassets are regulated under the Supervision of Financial Services (Regulated Financial Services) Law, 5776-2016 (the <b>Financial Services Supervision Law</b>) as “Services related to a Financial Asset”, unless one of the exemptions listed in such law applies. The Financial Services Supervision Law requires obtaining a license to engage in either of such activities.</p> <p>Non-bank lending is also regulated by the Financial Services Supervision Law and requires a license unless one of the exemptions listed applies.</p> <p>There are also general borrower protection laws in Israel.</p> <p>If yield/staking is offered in a centralized manner it may be considered non-bank credit and require a license as aforesaid. Depending on the service offered, it may also be subject to the investment management laws and regulations.</p> <p>Yield/staking may also be considered a security or debt security depending on the manner in which it is structured and offered.</p> |
|  | <p>The above assumes that the relevant cryptoassets would not be securities or considered securities under Israeli law. If cryptoassets are securities or considered securities under Israeli law, then applicable securities laws and regulations would apply</p>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  |  | <p>Obtaining a license would likely take at least 6 months. The Capital Markets, Insurance and Savings Authority in the Israeli Ministry of Finance (the <b>CMA</b>), which is the regulator with authority to grant licenses, issued the first license in September 2022, although the law requiring a license has been in effect since 2018, and therefore any timelines are only an estimate. Obtaining a license requires a local subsidiary.</p> <p>If the business does not require a license, it generally takes up to a week to incorporate in Israel, and another 2-3 weeks to register the company with the tax authorities and to open a bank account. It may take a cryptoasset</p>  |

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|   |  | business longer to open a bank account, since the banks in Israel are very hesitant to open accounts for crypto-related businesses, or accept the deposit of funds whose source is from crypto into bank accounts.   |
| <b>What would be the approximate overall cost of obtaining a licence?</b>   |  | Depending on the complexity of the business, the cost would be in the \$50,000-\$100,000 range.  |
| <b>What is the probability (%) of success in obtaining a licence?</b>   |  | As mentioned above, the CMA has within the past 4 years only granted a handful of licenses, so it is difficult to estimate.<br><br>With a specific client, we could approach the CMA on a no-name basis with details of the business to check whether it is a type of business to which they would be willing in principle to grant a license.   |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?<br/>E.g., Compliance requirements and physical presence</b> |  | In order to obtain a license, physical presence and a local entity is required. In addition, the controlling person of the group applying for a license would be required to obtain a control license and must be willing to provide required personal information to the CMA.<br><br>Notably, the banks in Israel have very strict requirements in order to accept a deposit of funds whose source is crypto. |

## Contact – Meitar

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# Italy

| Question  | AML Regulation   | Financial Services Regulation |
|---|--|-------------------------------|
| How is crypto regulated?  | Yes  | No                            |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>With the decree by the Ministry of Finance published on 17 February 2022 (the <b>Decree</b>), Italian and foreign cryptocurrencies service providers must necessarily enrol in a Special Section of the register held by the “Organismo per gli agenti e mediatori”, i.e., the Agents and Credit Brokers Body (the <b>OAM</b>) to lawfully operate in Italy.</p> <p>Depending on their features, crypto assets may fall within the definition of “financial product” which includes, in addition to EU financial instruments (as defined under MiFID), “any other form of investment of a financial nature”. If that is the case the offer of such products would require a prospectus or may amount to an investment service subject to license (e.g. in case of derivatives).</p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell) – unregulated (but requires the enrolment in the specific OAM register).</li> <li>– Custody (hold) – unregulated (but requires the enrolment in the specific OAM register).</li> <li>– Borrowing/lending (of cryptoassets) – it is not expressly regulated but it must be considered that lending is a subject to license in Italy.</li> <li>– Yield/staking – unregulated (but requires the enrolment in the specific OAM register).</li> </ul> |                               |
| How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?   | <p>Italian and foreign cryptocurrencies service providers must necessarily enrol in the Special Section of the register held by the OAM to lawfully operate in Italy.</p> <p>EU service providers may operate in Italy through a branch (or a subsidiary) whilst non-EU services providers must establish a subsidiary in Italy.</p> <p>The establishment of a subsidiary (with a minimum capital of EUR 10,000) or a branch in Italy will require 10/15 days once all necessary documents are in place, and the registration with the Special Section normally requires 15 days.</p>  |                               |
| What would be the approximate overall cost of obtaining a licence?  | The cost for registration with the Special Section is EUR 8,000.   | n/a                           |
| What is the probability (%) of success in obtaining a licence?  | 95%, as there are no specific requirements (such as minimum capital, experience and good repute of directors) to be fulfilled.   | n/a                           |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> <p><b>E.g., Compliance requirements and physical presence</b></p>  | <p>It is necessary to set up a branch (of an EU entity) or a subsidiary (of a non-EU entity) to provide cryptoassets related services in Italy.</p> <p>The relevant entity must comply with certain AML requirements and report to OAM the names of clients and transactions on a quarterly basis.</p>   | n/a                           |



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# Latvia

| Question  | AML Regulation  | Financial Services Regulation  |
|---|---|--|
| <p><b>How is crypto regulated?</b></p>  | <p>In Latvia, AML is primarily governed by the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (AML Law). 4MLD and 5MLD (Directives (EU) 2015/849 and 2018/843) have been transposed into Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing.</p>  | <p>Financial services are regulated under the Financial Instrument Market Law and other legislation, most notably the Law on Payment Services and Electronic Money.</p> <p>Authorisation and enforcement in regard to financial and capital markets, including but not limited to legislation above, is principally overseen by the Bank of Latvia.</p> <p>At present no legislation has been made in respect of cryptoassets <i>per se</i>.</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>The following activities are mostly unregulated in terms of cryptoassets. There are only AML Law specific regulations and definitions.</p> <p>The only reference to cryptoassets, specifically to the term virtual currencies, and to some of the activities referred to in the question, is included in the AML Law, in line with the AML Directives.</p> <p><b>Virtual currency</b> is defined as a digital representation of the value which can be transferred, stored or traded digitally and operate as a means of exchange, but has not been recognized as a legal means of payment, cannot be recognized as a banknote and coin, non-cash money and electronic money and is not a monetary value accrued in the payment instrument which is used in the cases referred to in Section 3, Clauses 10 and 11 of the Law on the Payment Services and Electronic Money.</p> <p><b>Virtual currency service provider</b> is the person providing virtual currency services, including the provider of services of exchange of the virtual currency issued by other persons, which provides the users with the possibility to exchange the virtual currency for another virtual currency by receiving commission for it, or offer to purchase and redeem the virtual currency through a recognised legal means of payment.</p> <p>Virtual currency service providers are subjects of the AML Law, meaning that they are required to (i) register with the</p> | <p>The following activities are mostly unregulated in terms of cryptoassets.</p> <p>Borrowing/lending of cryptoassets is not explicitly regulated in Latvia. It is arguable that lending of cryptoassets to consumers could fall within scope of consumer credit regulations. However, Consumer Rights Protection Centre (CRPC) (competent authority in the field of consumer lending) is quite active in supervision of consumer lending, but the CRPC does not appear to have sanctioned any firms or made any public announcements in this regard.</p> <p>In regards to exchange, custody, and yield/staking, such operations are regulated and accordingly require licence or permission if they “are traditional financial services”. Generally, virtual assets are investment-type (issued tokens) and might be qualified and classified as financial instruments within the meaning of the FIML (transferable securities — capital, debt, other securities or financial derivatives).</p> |

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|  | <p>State Revenue Service as subjects of the AML Law, including appointing a responsible person; (ii) conduct and document the assessment of the money laundering and terrorism and proliferation financing risks (<b>Risk Assessment</b>); (iii) establish an internal control system; (iv) report unusual and suspicious transactions.</p>   |  |
|  | <p>In essence, virtual currency service providers are subject to the same money laundering regulations as any other subject of the AML Law.</p> <p>There are no rules applicable to the promotion of cryptoassets <i>per se</i> in Latvia if such cryptoassets are not classified as financial instruments.</p>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>    | <p>Legal regulation in Latvia does not impose specific terms for the mentioned activities.</p> <p>In our approximate evaluation, the legal documentation production stage and establishment of the company could take 1-2 months.</p>   | <p>The same as within the scope of AML response.</p> |
|  | <p>In Latvia, there is no specific national framework for establishing cryptoassets business or obtaining a license for cryptoasset transactions, if any.</p> <p>Depending on the business model, there are types of virtual assets which are subject to authorisation. Mainly, these virtual assets are investment-type (issued tokens) and could be classified as financial instruments within the meaning of the Financial Instrument Market Law (transferable securities — capital, debt, other securities or financial derivatives).</p> <p>If this is the case the organiser of the initial coin offering needs to assess whether or not the investment firm shall obtain authorisation for the provision of investment services and ancillary investment services in Latvia.</p> <p>If cryptoassets are issued without the intention to grant the right to profit distribution, financial benefit or management in the issuer's company, authorisation by the Bank of Latvia may be excluded but consultations with this competent authority would be advisable.</p> |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                   | <p>N/A</p>  | <p>N/A</p>   |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                       | <p>N/A</p> <p>The Bank of Latvia aims to provide support to FinTech's and to promote innovation in the financial system. This intention to promote innovative financial services in Latvia, could include cryptoassets (depending on the business model).</p> <p>Hence, the Regulatory Sandbox is open to all financial service companies, including cryptoassets, that want to introduce an innovative financial service or business model, regardless of whether they are subject to supervision or are newcomers.</p>  | <p>N/A</p>   |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> | <p>N/A</p>  | <p>N/A</p>   |

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| <b>E.g., Compliance requirements and physical presence</b> |   |  |
|  | There are no other specific limitations to set up a cryptoasset business in Latvia. Nevertheless, the anticipated business model itself might raise certain limitations and hence it is advisable to first discuss with the Bank of Latvia. |  |

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# Liechtenstein

| Question  | AML Regulation  | Financial Services Regulation  |
|---|---|--|
| <p><b>How is crypto regulated?</b></p>  | <p>Law of 11 December 2008 on Professional Due Diligence for the Prevention of Money Laundering, Organised Crime and Financing of Terrorism (Due Diligence Act, <b>DDA</b>; Sorgfaltspflichtgesetz; <b>SPG</b>)</p>   | <p>Law of 3 October 2019 on Tokens and TT Service Providers (Token and TT Service Provider Act, <b>TVTG</b>; Token- und VT-Dienstleister-Gesetz <b>TVTG</b>)</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>Generally, VT service providers and agents that are subject to registration under the TVTG are subject to AML requirements under the Liechtenstein Due Diligence Act (Sorgfaltspflichtgesetz, <b>DDA</b>).</p> <p>Services that require registration include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>– Exchange, if subject to registration requirement as TT Exchange Service Provider (Art 3 (1) (r) SPG)</li> <li>– Custody, if subject to registration requirement as TT Key Depositary and TT Token Depositary (Art 3 (1) (r) SPG)</li> </ul> <p>For the other mentioned activities, it depends on the specific field of activity and details of that activity to provide an appropriate answer.</p> <p>As a rule of thumb, whenever licensing or requirements are triggered (also under traditional financial regulation), AML requirements will apply.</p> | <p>Subject to a registration requirement under the Law of 3 October 2019 on Tokens and TT Service Providers (Token and TT Service Provider Act; <b>TVTG</b>) are for example the following activities:</p> <p><b>Exchange</b></p> <p>According to the legal definition, a “TT Exchange Service Provider” is a person, who exchanges legal tender against Tokens and vice versa and Tokens for Tokens (Art 2 (1) (q) TVTG);</p> <p>An ‘exchange’, which (instead of offsetting a transaction against its own book) brings together buying and selling interests from a number of participants and which has no possibility to interfere with the transactions, will not qualify as a “TT Exchange Service Provider”, but may qualify as a “TT Price Service Provider” which is also regulated (Art 2 (1) (s) TVTG).</p> <p><b>Custody</b></p> <p>“<b>TT Key Depositary</b>”: a person who safeguards TT Keys for clients; (Art 2 (1) (m) TVTG).</p> <p>“<b>TT Token Depositary</b>”: a person who safeguards Token in the name and on account of others; (Art 2 (1) (n) TVTG).</p> <p><b>Borrowing/ lending and yield/ staking</b></p> <p>There is no specific regulation applicable to borrowing or lending of crypto (i.e. if no fiat or e-money or financial instruments are involved).</p> <p>With regard to staking, it depends on the specific field of activity and details of that activity to provide an appropriate answer. However, depending on the business model, staking can be associated with services that are subject to the TVTG,</p> |

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|   |  | <p>such as Key or Token Depository services. Note that, whenever the respective crypto qualifies as financial instrument or e-money, further licensing requirements apply, also for exchange and custody.</p> <p>It is crucial to assess on a case-by-case basis what kind of cryptocurrency is part of the business model and what licensing requirements may be triggered due to, for example, the processing of payments or other relevant processes that are part of the services provided.</p>   |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>For the above-mentioned services, the AML requirement is linked to the registration under the TVTG. Therefore, for the following questions, the provisions of the TVTG must also be considered.</p> | <p>The Financial Market Authority Liechtenstein (<b>FMA</b>) must decide on the application for registration under the TVTG within three months. (Art 19 TVTG). The FMA emphasizes that the duration of the respective registration process depends significantly on the quality of the submitted documents.</p> <p>In addition, it must be taken into account that the TT Service applied for may only be exercised for the first time after having entered into the TT Service Provider Register (Art 19 (5) TVTG).</p> <p>Note that, whenever the respective crypto qualifies as financial instrument or e-money, further licensing requirements apply. In such case, the timeframes are significantly longer.</p> |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>  | <p>Please refer to the answer above.</p>   | <p>The regulatory fees of granting or refusing a registration is CHF 1,500.00. If several services are to be registered, an amount of CHF 1,500.00 has to be paid for the first service and CHF 700.00 for each additional service.</p> <p>Note that this does not include legal advice or incorporation costs. In addition, it has to be considered that, whenever the respective crypto qualifies as financial instrument or e-money, further licensing requirements apply. In such case, the costs are significantly higher.</p>   |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>  | <p>Please refer to the answer above.</p>   | <p>If the conditions are met, there is a high probability for obtaining a registration. The FMA may only refuse the registration if the registration requirements are not met. In this event, it is possible to file a complaint within 14 days.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/><b>E.g., Compliance requirements and physical presence</b></p> | <p>Please refer to the answer above.</p>   | <p>In general, Art. 13 TVTG specifies the legal requirements for an entry in the TT Service Provider Register. Some requirements are the following, however this is not an exhaustive list:</p> <p>The TVTG is applicable to natural and legal persons with headquarters or place of residence in Liechtenstein who wish to professionally act as TT Service</p>  |

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|  |  | <p>Providers, Token Issuers or non-professional third-party issuances that are higher than CHF 5 Million in a period of 12 months. The respective requirements for obtaining a registration must be met (e.g. organisational requirements, internal control system, substance, adequate resources and minimum capital, reliability and a technical suitability).</p> <p>The minimum capital for TT Exchange Service Providers is CHF 30,000.00 or CHF 100,000.00 depending on the transaction volume; the minimum capital for a TT Key- or a TT Token Depository is CHF 100,000.00.</p> <p>Further, AML requirements are linked to the registration under the TVTG. Consumer protection/e-commerce requirements must be observed as well.</p> <p>Under certain circumstances there is the possibility to provide TVTG services on a cross border basis without triggering registration requirements. Advice from local counsel should be obtained.</p> |
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## Contact – Gasser Partner

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# Lithuania

| Question   | AML Regulation  | Financial Services Regulation  |
|--|---|--|
| <p><b>How is crypto regulated?</b></p>   | <p>In Lithuania virtual currency exchange operators and depository virtual currency wallet operators are subject to AML and CTF measures by and large to a similar extent as non-financial institutions.</p> <p>‘Virtual currency exchange operator’ means a legal entity established in the Republic of Lithuania or a branch of a legal entity of a Member State of the European Union or a foreign state established in the Republic of Lithuania providing virtual currency exchange, purchase, and/or sale services for a fee.</p> <p>‘Depository virtual currency wallet operator’ means a legal entity established in the Republic of Lithuania or a branch of a legal entity of a Member State of the European Union or of a foreign state established in the Republic of Lithuania providing services on behalf of clients for the management of depository virtual currency wallets... The Law establishes key requirements for virtual currency exchange operators and depository virtual currency wallet operators. Despite the regulatory requirements for virtual currency exchange operators and depository virtual currency wallet operators being provided in the Law, for the sake of good order, requirements related to AML/CTF for such entities shall be described in this AML column, whilst other regulatory requirements (licensing, registration, etc.) shall be described in FSR column.</p> | <p>Lithuania currently has quite a favourable regulatory regime for crypto businesses, as they are not subject to licensing nor other stringent regulatory requirements. However, amendments to current regulation, which entered into the force from November of 2022, brought more regulatory clarity for crypto businesses. More details about regulatory amendments are provided in the last section</p> |
| <p>For the purposes of this project, we have assumed that crypto currencies are not deemed to be financial instruments.</p> <p>However, please note that the Bank of Lithuania (supervisor of licensable financial services and capital markets in Lithuania) has issued its opinion stating that in certain cases crypto currencies may have features of financial instruments, the currency and entities issuing, holding and/or intermediating/performing transaction with such crypto currencies may be subject to prospectus and financial/investment services regulatory requirements similar to those instruments/service providers, features of which the crypto currency entails.</p> |   |  |

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| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>The operator of a depository virtual currency wallet and the operator of a virtual currency exchange must take measures to identify and verify the identity of the client and the UBO:</p> <ul style="list-style-type: none"> <li>- before entering into a business relationship;</li> <li>- before carrying out occasional virtual currency exchange transactions or occasional virtual currency transactions in funds equal to or exceeding EUR 700 or             <ul style="list-style-type: none"> <li>o its equivalent in foreign or virtual currency, or</li> <li>o making an occasional deposit in a virtual currency wallet or</li> <li>o an occasional virtual currency transaction, or</li> <li>o an occasional virtual currency transaction in a foreign or virtual currency.</li> </ul> </li> </ul> <p>An occasional withdrawal of virtual currency in an amount equal to or exceeding EUR 700 or its equivalent in foreign or virtual currency, whether the transaction is made by means of one or more interrelated transactions (the value of the virtual currency is determined at the time of the monetary transaction or at the time of the conclusion of the transaction), except where the identity of the customer and the beneficiary has already been established;</p> <ul style="list-style-type: none"> <li>- where there are doubts as to the correctness or authenticity of previously obtained customer and recipient identity data;</li> <li>- In case of multiple interlinked monetary transactions, which in total reach EUR 700, the identity of the customer must be established as soon as the multiple monetary transactions are found to be interlinked.</li> </ul> <p>Virtual currency exchange operators and operators of depository virtual currency wallets are also obliged to</p> | <p>Currently, such activities are not subject to licensing in Lithuania. However, the virtual asset service provider shall undergo the authorization (registration) process before provision of crypto-related services.</p> <p>Virtual currency exchange operator or a depository virtual currency wallet operator before provision of virtual asset related services shall inform the Register of Legal Entities of the Republic of Lithuania about the commencement of mentioned activities no later than within 5 business days from the commencement of activities.</p> <p>Additionally, virtual asset service providers must appoint an AML officer, who has to be a senior officer responsible for implementation of the AML/CTF measures in the company and liaising with the supervisor, i.e. Financial Crime Investigation Service (FCIS). AML officer must be a permanent resident of Lithuania, as defined by the Personal Income Tax Law of the Republic of Lithuania and can represent only one virtual asset service provider at the same time, except in cases where the companies belong to one group of companies.</p> <p>If the company has a board, it must also assign a board member to oversee the company's AML/CTF measures implementation and a senior employee (AML officer) for liaising with the FCIS. If board is not former, the CEO of the company shall take over this responsibility.</p> <p>The FCIS shall be notified in writing regarding the designation as well as of any replacements of such employees by indicating contact details of respective employee not later than within 7 business days from the date of their designation or replacement.</p> <p>It shall be noted that virtual asset service providers are subject to shareholder/UBO/directors suitability requirements (i.e. a person found guilty of committing a serious crime</p> |
|---|---|---|

notify the FCIS about suspicious monetary operations or transactions.

Virtual currency exchange operators and operators of depository virtual currency wallets must keep information that links the address of the virtual currency to the identity of the owner of the virtual currency for a period of 8 years from the end of the transaction or business relationship with the customer.

Virtual currency exchange operators and operators of depository virtual currency wallets must:

- take measures and identify the customer and the beneficial owner as well as verify their identity before carrying out virtual currency exchange operations or transactions in virtual currency with funds amounting to 700 EUR or more, or the equivalent amount in foreign or virtual currency, or before depositing virtual currency to or withdrawing virtual currency from the depository virtual currency wallet in the amount equal to 700 EUR or more, or the equivalent amount in foreign or virtual currency, whether that transaction is carried out in a single operation or in several operations which appear to be linked (the value of the virtual currency is determined at the time the monetary operation is carried out or the transaction is concluded), except for the cases where the customer and the beneficial owner have been already identified.
- notify the FCIS of the customer identification data and information on performed virtual currency exchange operations or transactions in virtual currency, if the value of such monetary operation or transaction amounts to 15 000 EUR or more, or an equivalent amount in foreign

against property, property rights and property interests, the economy and business order, the financial system, the civil service and the public interest, and has an unexpired or unexpunged conviction is deemed unsuitable).

or virtual currency, whether the transaction is carried out in a single monetary operation or in several operations which appear to be linked. For the purposes of this article, several linked monetary operations shall mean several daily virtual currency exchange operations or transactions in virtual currency when the total value of operations and transactions in funds amounts to 15 000 EUR or more, or an equivalent amount in foreign or virtual currency.

- report to the FCIS about suspicious monetary operations or transactions.
- establish internal policies and internal control procedures related to:
  - o Identification of the customer and of the beneficial owner and verification of their identity.
  - o Risk assessment and risk management having regard to the types of identified risk.
  - o Organisation of monitoring of business relationships and/or operations.
  - o Implementation of international financial sanctions and restrictive measures.
  - o Submit reports and information to the FCIS.
  - o Keep registers.
  - o Store information specified in the Law.
  - o Update information concerning the identification of the customer and of the beneficial owner.
  - o Organise training for employees to properly familiarise them with requirements for the prevention of money laundering and/or terrorist financing.
  - o Ensure the distribution of functions in the financial institution in the implementation of money

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|   | <p>laundering and/or terrorist financing prevention measures, as well as the management and communication of information on the fulfilment of requirements.</p>   |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>Dependant on the readiness and involvement of the client (provision of required documents, etc.) – 1-3 months/4-6 weeks for non-complicated cases, for cases with complications it is hard to say as it case-dependent.</p>  |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>  | <p>Our costs of assisting with the establishment of a company, registration and the drafting of internal procedures would be around EUR 10,000-EUR 20,000 depending on the scope of involvement/contribution/readiness of the client for no-complication cases. For complicated cases (e.g. issues with opening bank account due to UBOs, etc.) we would charge for solving more complicated/non-standard matters at hourly rate EUR 120-200 (+VAT if applicable) depending on the seniority of the lawyer completing the task.</p> <p>Additional costs include initial share capital (currently min EUR 2,500 for private limited liability entities/125,000 for virtual asset service providers), notarial, registration and translation.</p> <p>There will be costs related to offices. The company must have a registered office in Lithuania, offices can be rented (office and/or registered address (only)), employee costs (company must have at least general manager and an AML officer (function of AML officer could not be outsourced, AML officer must be employed under the employment contract within virtual asset service provider)).</p>     |  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>  | <p>Currently non-licensable. If owners/UBO/directors, organisation and managers of the company comply with regulatory requirements, the success rate of obtaining the authorization is very high.</p>   |  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/><b>E.g., Compliance requirements and physical presence</b></p> | <p>The current regime has implemented stricter requirements, as amendments of the Law in respect of crypto businesses. The key changes include:</p> <ul style="list-style-type: none"> <li>- Higher share capital requirements are already in place, the share capital has to be at least 125,000 EUR, implemented since November 1 2022.</li> <li>- stricter requirements as to the reputation of the members of management and supervisory bodies or the recipients of such persons;</li> <li>- prohibition for AML officers to represent more than one crypto company at the same time (unless they belong to the same group of companies);</li> <li>- obligations to have at least one senior manager permanently residing in Lithuania to ensure proper AML/CTF requirements compliance and efficient liaison with the FCIS;</li> <li>- prohibition to open anonymous accounts or accounts with fictitious names;</li> <li>- all virtual currency exchange and depository wallet operators will be included in the public list maintained by the Register of Legal Entities;</li> <li>- the requirement for conducting activities in Lithuania.</li> </ul> |  |

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# Luxembourg

| Question   | AML Regulation   | Financial Services Regulation   |
|--|--|---|
| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>The only regulation in respect of cryptoassets <i>per se</i> in Luxembourg at present is under the law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended (<b>AML Law</b>). The AML Law implements the Fifth Money Laundering Directive (<b>5MLD</b>) into Luxembourg law, going beyond, however, the provisions thereof.</p> <p>The AML Law subjects to registration requirements the following activities:</p> <ul style="list-style-type: none"> <li>– the exchange between virtual assets and fiat currencies, including the service of exchange between virtual currencies and fiat currencies;</li> <li>– the exchange between one or more forms of virtual assets;</li> <li>– the transfer of virtual assets;</li> <li>– the safekeeping or administration of virtual assets or instruments enabling control over virtual assets, including the custodian wallet service;</li> <li>– the participation in and provision of financial services related to an issuer's offer or sale of a virtual asset.</li> </ul> | <p>Financial services are regulated under the law of 5 April 1993 on the financial sector, as amended (FSL) and other legislation, notably the law of 10 November 2009 on payment services.</p> <p>Authorisation and enforcement under the FSL and the other legislation is principally overseen by the <i>Commission de Surveillance du Secteur Financier (CSSF)</i>.</p> <p>At present, no legislation has been made in respect of cryptoassets <i>per se</i> from a financial services perspective.</p> <p>Luxembourg has, however, adopted several laws in order to enable:</p> <ul style="list-style-type: none"> <li>– account keepers to maintain securities accounts and credit securities on such accounts within or through secured electronic registration mechanisms, including distributed electronic ledgers or databases. In practice, this means that the law allows for the maintaining and transfer of securities by way of DLT;</li> <li>– central account keepers or settlement organisations to keep securities issuance accounts and carry out the registration of dematerialised securities within or through secured electronic registration mechanisms, including distributed electronic ledgers or databases.</li> </ul> <p>Finally, there is also a draft bill in Parliament amending the definition of financial instruments to also include financial instruments which are issued by means of DLT</p> |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  | <p>Overall, between 9 to 12 months. This delay may be shortened depending on whether the relevant entity is already well-established.</p>  | <p>N/A</p>  |



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| <b>What would be the approximate overall cost of obtaining a licence?</b>   | <p>An annual lump sum of EUR 15,000 to be paid to the CSSF.</p> <p>Legal and other fees will be necessary.</p>  | <p>N/A</p> |
| <b>What is the probability (%) of success in obtaining a licence?</b>   | <p>This will depend on the shareholding structure and the contemplated managers, whether the entity already has a track-record, etc. A well-advised applicant with a high-quality application should expect their application to be approved.</p> | <p>N/A</p> |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br><b>E.g., Compliance requirements and physical presence</b> | <p>The CSSF requires a minimum of substance in Luxembourg along with two managers present in Luxembourg. Compliance will play an important role since the CSSF supervises the relevant entity from an AML-CTF perspective.</p>                    | <p>N/A</p> |

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# Malta

| Question  | AML Regulation  | Financial Services Regulation   |
|---|---|---|
| <p><b>How is crypto regulated?</b></p>  | <p>In Malta, the Financial Intelligence Analysis Unit (<b>FIAU</b>) is the national central agency responsible for the collection, collation, processing, analysis and dissemination of information to combat money laundering and the funding of terrorism.</p>  | <p>The Malta Financial Services Authority (<b>MFSA</b>) is the single regulator of financial services in Malta. The MFSA regulates credit &amp; financial institutions, insurance companies and insurance intermediaries, investment services companies and collective investment schemes, securities markets, recognised investment exchanges, trustees, company services providers and pension schemes. Since 2018, the MFSA is also responsible for regulating Virtual Financial Assets.</p>   |
|   | <p>The Malta Business Registry (<b>MBR</b>) and the Commissioner for Revenue have jurisdiction over company incorporation and related corporate ongoing obligations, and tax-related matters, respectively.</p>   |   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> </ul> <p>These activities are mostly regulated. Entities engaging in licensable activities in relation to crypto assets classifying as virtual financial assets, electronic money or financial instruments (<b>see comments under FSR column</b>) would be Subject Persons under the local Prevention of Money Laundering and Funding of Terrorism framework.</p> <ul style="list-style-type: none"> <li>– <b>Yield/staking</b></li> </ul> <p>This depends on what the proposed business model would look like and what party to the transaction the entity would be. See comments above in relation to licensable activities under the financial services framework.</p> | <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> </ul> <p>These activities are mostly regulated. The Virtual Financial Assets Act (Chapter 590 of the Laws of Malta) (<b>VFA Act</b>) provides a requirement to distinguish between different types of crypto assets. Assets that are intrinsically dependent on, or utilise, Distributed Ledger Technology (<b>DLT asset</b>) can be categorised into one of the below definitions. The regulation of such activity would depend on this definition determination, as outlined below.</p> <ul style="list-style-type: none"> <li>(a) a virtual token: <b>Outside regulatory scope</b></li> <li>OR</li> <li>(b) a virtual financial asset: <b>Regulated under the VFA Act</b></li> <li>OR</li> <li>(c) electronic money: <b>Regulated under the Financial Institutions Act (Chapter 376 of the Laws of Malta)</b></li> <li>OR</li> </ul> |

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|   |  | <p>(d) a financial instrument:<br/>Regulated under the Investment Services Act (Chapter 370 of the Laws of Malta)</p> <p>– <b>Yield/staking</b><br/>This depends on what the proposed business model will look like and what party to the transaction the entity would be. See comments above in relation to licensable activities under the financial services framework.</p>   |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>The authorisation process for entities engaging in activities relating to crypto assets classifying as virtual financial assets, electronic money or financial instruments falls within the jurisdiction of the MFSA.</p> | <p>Approximately 6 months to 1 year depending on:</p> <p>(a) the licence type;</p> <p>(b) the quality of the application submitted to the MFSA in terms of completeness, and the fitness and properness of the proposed appointed persons and service providers put forward for approval; and</p> <p>(c) the complexity of the proposed business model.</p>  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>Please refer to FSR column.</p>   | <p>Fees depend on the licence type and the services provided. Authorisation Fees under the Virtual Financial Assets Act are as follows:</p> <ul style="list-style-type: none"> <li>– VFAA Class 1: €6,000</li> <li>– VFAA Class 2: €10,000</li> <li>– VFAA Class 3: €14,000</li> <li>– VFAA Class 4: €24,000</li> </ul> <p>Authorisation Fees under the Investment Services Act are outlined under the Schedule of the <b>Investment Services Act (Fees) Regulations</b>.</p> <p>Authorisation Fees under the Financial Institutions Act are outlined under the <b>Financial</b></p> |

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|   |   | <b>Institutions Act (Fees) Regulations.</b><br>All licences carry an annual supervisory fee, which is dependent on the licence type. Legal and other professional fees will be necessary.  |
| <b>What is the probability (%) of success in obtaining a licence?</b>   | <b>Please refer to FSR column.</b>  | The probability of success of obtaining a licence is dependent on the fitness and properness of the proposed personnel and service providers, and on the robustness of the proposed business model.  |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br><b>E.g., Compliance requirements and physical presence</b> | Compliance with the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) and Prevention of Money Laundering and Funding of Terrorism Regulations (Subsidiary Legislation 373.01) and Part I and Part II – Virtual Financial Assets Sector of the Implementing Procedures issued by the FIAU. | The extent of the requirements will depend on the licence type. In general, requirements relate to the licensing process, processes for appointed persons, local substance, capital and liquidity, organisational requirements including governance, risk management, compliance and safeguarding of client assets, conduct of business obligations, record keeping, reporting and disclosure obligations etc. |

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# The Netherlands

| Question  | AML Regulation   | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p>  | <p><b>Legislation</b></p> <p>There is currently no specific legislation with respect to cryptoassets other than the Dutch implementation of the Fifth Anti-Money Laundering Directive (<b>5MLD</b>) in the Netherlands. The legal definitions of “custodian wallet providers” and “providers engaged in exchange services between virtual currencies and fiat currencies” are included in the Dutch Money Laundering and Anti-Terrorist Financing Act (<i>Wet ter voorkoming van witwassen en financieren van terrorisme</i>, (<b>Wwft</b>)).</p> <p><b>Regulator</b></p> <p>The Dutch Central Bank (<i>De Nederlandsche Bank</i> (<b>DNB</b>)).</p>   | <p>There is no specific crypto legislation in the Netherlands, other than the implementation of 5MLD in the Wwft.</p> <p>The Dutch Financial Supervisory Act (<b>FSA</b>) would therefore only be applicable to cryptoassets if they qualify as a traditional financial instrument, such as a security.</p> <p><b>Regulator</b></p> <p>The Dutch Authority for the Financial Markets (<i>Autoriteit Financiële Markten</i>, (<b>AFM</b>)).</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p><b>Custody (hold)</b></p> <p>A cryptocurrency wallet is referred to in the Wwft as a ‘custodian wallet provider’ and is defined as “<i>an entity that provides services to safeguard private cryptographic keys on behalf of its customers, to hold, store and transfer virtual currencies.</i>” The definition has been derived from the 5MLD.</p> <p>The Wwft defines a virtual currency as “<i>a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically</i>”. The definition has also been derived from the 5MLD.</p> <p><b>Exchange (buy/sell)</b></p> <p>A cryptocurrency exchange is referred to in the Wwft as “<i>providers engaged in exchange services between virtual currencies and fiat currencies</i>”. The definition has been derived from the 5MLD.</p> | <p>If a cryptoasset has the characteristics of a regulated investment under the FSA, e.g. a share in a company, then exchange and custody of that cryptoasset will likely entail regulated activities, such as dealing in investments and safeguarding investments.</p> <p>The borrowing/lending of cryptoassets is not explicitly regulated in the Netherlands. It is arguable that the lending of cryptoassets to consumers could fall within the scope of consumer credit regulation, but the AFM or DNB does not appear to have sanctioned any firms or made any public announcements in this regard.</p> <p>Yield/staking is a complicated area. Depending on the business model and detail of the transactions, it can be arguable either way that yield/staking is within scope of the collective investment scheme regulations. The AFM does not appear to have sanctioned any</p> |

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|   | <p>The providers of “custodian wallets” and “providers engaged in exchange services between virtual currencies and fiat currencies” provide regulated activities and must file a registration with DNB. The registration requirement applies to service providers who provide these services in a professional capacity or on a commercial basis in or from the Netherlands.</p> <p>Entities that solely provide services for the exchange between virtual currencies are currently not obliged to register with DNB.</p> <p>The activities (i) borrowing/lending and (ii) yield/staking regarding virtual currencies (as defined in the Wwft) are not regulated in the Netherlands, if this does not involve fiat currencies and/or the regulated activities mentioned above.</p> | <p>firms or made any public announcements in this regard.</p>   |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>In principle, the DNB decides on applications for registration within two months of receipt of a complete application. However, the actual application period depends on several factors, including the quality and completeness of the application.</p>  | <p>Processing times for applications under the FSA will vary from six months to a year depending on the activity requiring authorisation.</p> |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>One-off charges apply to applications for registration as a crypto service provider and for fit and proper assessments:</p> <ul style="list-style-type: none"> <li>– Processing an application for registration as meant in Section 23b of the Wwft (including assessments as meant in Section 23h of the Wwft): EUR 6,300</li> <li>– Fit and proper assessments of natural persons, not in the context of a registration as meant in Section 23b of the Wwft: <ul style="list-style-type: none"> <li>– Section 23h(1) of the Wwft (fitness): EUR 2,000;</li> <li>– Section 23h(2) and (4) of the Wwft (propriety): EUR 1,100.</li> </ul> </li> </ul> <p>Please note that an annual fee will be charged for regular supervision to all crypto service providers.</p>            | <p>The application fee will depend on the particular application.</p>   |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>The probability of success depends on several factors, including the quality and completeness of the application.</p>   | <p>The probability of success depends on several factors, including the quality and completeness of the application.</p>                      |
| <p><b>What other limitations are there in your jurisdiction when looking to set</b></p>                         | <p><b>Compliance</b><br/>Crypto service providers must submit information on their organisation, including data evidencing compliance</p>  | <p>Firms need to also comply with the wider rules and guidance under the FSA (in addition to the Wwft).</p>                                   |

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| <p><b>up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>with the Wwft and the Sanctions Act. Under the Sanctions Act, DNB expects that crypto service providers verify whether the customer is indeed the owner of the wallet.</p> <p><b>Testing of policymakers</b></p> <p>As part of the registration process, all management board members, (co-) policymakers and supervisory board members must be assessed for fitness and propriety, while the holders of qualifying holdings (shares representing 10% or more of shares and/or voting rights) need to be assessed for propriety.</p> <p>In order to apply for a fitness or propriety assessment, the online form 'Initial assessment crypto service providers' in the Digital Supervision Portal should be used.</p> <p><b>Propriety assessment:</b> DNB verifies whether the propriety of a candidate is beyond doubt, which involves ensuring their intentions, actions and antecedents do not stand in the way of performing their duties. In this respect, DNB primarily focuses on their antecedents.</p> <p><b>Fitness assessment:</b> When assessing fitness, DNB determines whether a candidate has sufficient relevant knowledge and skills, and displays the required professional behaviour to perform the job. DNB determines this based on their education, work experience and competencies.</p> |  |
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## Contact – CMS

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# Poland

| Question  | AML Regulation   | Financial Services Regulation  |
|---|--|--|
| <p><b>How is crypto regulated?</b></p>  | <p>There is currently no specific legislation with respect to cryptoassets other than the Polish implementation of the Fifth Anti-Money Laundering Directive (<b>5MLD</b>) in Poland.</p> <p>5MLD was implemented into Polish national law by AML regulation (<b>AML Act</b>).</p>   | <p>Financial services are regulated under the Public Offering Act, the Financial Instruments Trading Act and other legislation.</p> <p>Authorisation and enforcement under these instruments is principally overseen by the Polish Financial Supervision Authority (<b>PFSA</b>).</p> <p>At present no legislation has been made in respect of cryptoassets <i>per se</i>.</p> |
|   | <p>In general, the cryptocurrency sector is not regulated in Poland beyond the AML Act requirements.</p> <p>Please note that the Polish AML regulation for cryptocurrencies has a transitory nature and regulates this issue until the EU MiCA regulation comes into force.</p>  |  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>The only regulation in respect of cryptoassets <i>per se</i> in Poland is the Polish AML Act.</p> <p>The Polish AML Act applies to entities that provide:</p> <ul style="list-style-type: none"> <li>– services of exchange of virtual currencies and services of exchange between the virtual currencies and means of payment;</li> <li>– brokerage in exchange of virtual currencies; and</li> <li>– keeping accounts of virtual currencies.</li> </ul> <p>In practice, it covers mainly exchange offices, cryptocurrency stock markets and entities responsible for providing cryptocurrency wallets.</p> <p>Additionally, virtual currency providers will need to demonstrate that it has policies, controls and procedures in place to effectively manage money laundering and terrorist financing risks proportionate to the size and nature of the business' activities.</p> | <p>N/A</p>   |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>To conduct cryptoasset regulated activity, it is necessary to obtain an entry in the register of virtual currency activities. Obtaining such an entry involves only some formal requirements:</p> <ul style="list-style-type: none"> <li>– individuals/shareholders authorised to conduct the affairs</li> </ul>  | <p>N/A</p>   |

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|   | <p>and represent the company/members of governing bodies, who conduct cryptoasset-related activities, as well as the beneficial owners of the entity conducting such activities cannot be convicted of intentionally committing one of the criminal offences enumerated in the law;</p> <ul style="list-style-type: none"> <li>– the law requires that individuals carrying out cryptoasset activities must have knowledge and experience related to cryptoassets obtained through: (i) a training or course on the legal or practical aspects of cryptocurrency activities, (ii) performing activities related to cryptocurrency business for at least one year. Such knowledge and experience must be proven by appropriate documents;</li> <li>– the entity applying for registration must submit an application in electronic form, containing: (i) name and surname/company's business name, (ii) KRS and NIP numbers and (iii) indication of the provided cryptoassets services. The application must be signed with an electronic signature or personal signature. In addition, the application must be accompanied by a statement as indicated in Article 129f of the AML Act, confirming that the data contained in the application is true and accurate.</li> </ul> <p>The Minister of Finance is obliged to make an entry in the register within 14 days of submission of an application and a statement.</p> |            |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>        | <p>Entry in the register of virtual currency activities is only subject to a stamp duty of PLN 616.</p> <p>Legal and other professional fees will be necessary.</p>  | <p>N/A</p> |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>            | <p>Registration is a formal requirement. If all the legal requirements required by the AML Act are met, the probability of success is rather high.</p>   | <p>N/A</p> |
| <p><b>What other limitations are there in your jurisdiction when looking to set</b></p> | <p>According to the Polish AML Act, conducting professional activities related to cryptoassets requires the fulfilment of obligations set out for obliged entities (e.g. the requirement</p>   | <p>N/A</p> |

**up a cryptoasset  
business?  
E.g., Compliance  
requirements and  
physical presence**

to update the risk assessment) and  
applying financial security measures.

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# Portugal

| Question   | AML Regulation  | Financial Services Regulation   |
|--|---|---|
| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>Until the Regulation on Markets in Cryptoassets (<b>MiCA</b>) comes into force, all of the following activities are only regulated for AML purposes. Any entities providing such services on a professional basis are required to register before the Bank of Portugal (banking regulatory authority). The Bank of Portugal's regulatory oversight is, however, limited to AML aspects, and does not cover or otherwise monitor the activities themselves.</p> | <p>Cryptoassets as such are not regulated for FSR purposes (for instance in the case of regular bitcoins). However, should the cryptoassets, materially, have the characteristics of a security which is regulated pursuant to FSR then they shall be subject to the regulatory requirements applicable to such securities. This, however, is subject to a case by case review to be conducted by the CMVM (Portuguese securities exchange commission).</p> |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  | <p>According to the legal frame is 3 months, but it may go up to 6 months if the Bank of Portugal makes additional information requirements. The average is usually around 5-6 months</p> <p>Nevertheless, when MiCA comes into force this will change as the issuance of tokens and the cryptoassets service providers activities will be regulated.</p>   | <p>Dependent upon the type of licence required.</p>   |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>   | <p>N/A</p>  | <p>Dependent upon the type of licence required.</p>   |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>   | <p>90%</p>  | <p>Conditional on the type of licence required. Financial regulatory environment in Portugal generally proactive and friendly.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> <p><b>E.g., Compliance requirements and physical presence</b></p>   | <p>It is only necessary to comply with the registration process regarding AML (through the provision of some documentation).</p>  | <p>Compliance requirements dependent on the type of security to which the cryptoasset is deemed equivalent to.</p>  |

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# Romania

| Question   | AML Regulation  | Financial Services Regulation  |
|--|---|--|
| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) extended the Fourth Money Laundering Directive (<b>4MLD</b>) regime to “providers engaged in exchange services between virtual and fiat currencies” and to “custodian wallet providers”.</p> <p>5MLD was transposed into Romanian national law via amendments (Romanian Government Emergency Ordinance no. 111/2020 approved by Romanian Law 101/2021) to Romanian Law no. 129/2019 on AML (<b>AML Law</b>).</p> <p>There is currently no other specific legislation with respect to cryptoassets other than the AML Law in Romania. The legal definitions of “providers engaged in exchange services between virtual and fiat currencies” and “custodian wallet providers” are included in AML Law.</p> <p>With respect to borrowing/lending (of cryptoassets), even though it is not expressly regulated, it must be considered that lending is subject to license in Romania.</p> <p>Providers of exchange services between virtual and fiat currencies, as well as the digital wallet providers have the obligation to be registered and/or authorized in order to carry out such activities.</p> <p>In this respect, providers engaged in exchange services between virtual currencies and fiat currencies and digital wallet providers must comply with AML Law and to be authorised by or registered with the Romanian Ministry of Public Finance, via the Foreign Exchange Licensing Commission.</p> <p>Under AML Law:</p> <ul style="list-style-type: none"> <li>– the term “<b>virtual currency</b>” is defined as a digital representation of value that is not issued or guaranteed by a central bank or public authority. It is not necessarily linked to a legally established currency and does not have the legal status of currency or money, but is accepted by individuals or legal entities as a means of exchange and may be transferred, stored and traded electronically;</li> </ul> | <p>At this moment we are not aware of the existence of any Romanian financial services regulations in respect to cryptoassets activities.</p> <p>When a cryptoasset qualifies as a financial instrument, the Romanian and European financial markets regulations shall apply in the performance of such activities. Respectively, in certain cases where crypto currencies may have features of financial instruments, the currency and entities issuing, holding and/or intermediating/performing transaction with such crypto currencies may be subject to prospectus and financial/investment services regulatory requirements similar to those instruments/service providers, features of which the crypto currency entails.</p> |

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|  | <ul style="list-style-type: none"> <li>– the term “<b>digital wallet provider</b>” means an entity that provides services for the secured storage of private cryptographic keys on behalf of its customers for the holding, storage and transfer of virtual currency.</li> </ul>  |     |
|  | <p>In general, except for AML Law, the cryptocurrency sector is not regulated in Romania.</p> <p>However, it must be checked in each individual case, e.g., which cryptocurrency is used by the business (for example: security tokens, e-money tokens etc.) if it falls under the definition of financial instruments.</p> <p>Please note that the National Bank of Romania stated in a press release that the virtual currency is neither a national currency nor a currency, and its acceptance for payment is not legally binding.</p>  |     |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>  | <p>Please note that at this moment we are not aware of the existence of a procedure (which was supposed to be issued by the Romanian Government based on the AML Law provision) by which such providers are required to be authorised by or registered with the Romanian Ministry of Public Finance.</p>  | N/A |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>   | <p>No indication of costs is currently provided under the Romanian legislation.</p>   | N/A |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>   | <p>Further steps should be taken by the Romanian Ministry of Public Finance.</p>  | N/A |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>In principle, in order to carry out activities related to cryptocurrency, providers must be:</p> <ul style="list-style-type: none"> <li>– established in accordance with Romanian legislation; or</li> <li>– to be authorized/registered by the competent authorities in a Member State of the European Union, or in the signatory states of the Agreement on the European Economic Area or in the Swiss Confederation. Such services may be provided in Romania on the basis of the notification sent by the Member State competent authority to the Romanian Ministry of Public Finance, via the Foreign Exchange Licensing Commission (the <b>Commission</b>) and the response received to this notification from the Commission. <p><b>Legal obligations</b></p> <p>The legal obligations of a cryptoasset business are, <i>inter alia</i>:</p> <ul style="list-style-type: none"> <li>– to take KYC measures;</li> </ul> </li></ul> | N/A |

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|   | <ul style="list-style-type: none"> <li>– to identify the risk associated with these services and their use for criminal purposes;</li> <li>– to identify the ultimate beneficiary owner;</li> <li>– to monitor and report certain transactions to the authorities etc.;</li> <li>– to notify the Commission in respect to the identification data of its authorized representative, who must be domiciled in Romania and is authorized to conclude contracts on behalf of the cryptoasset business and for representation before state authorities and courts in Romania.</li> </ul> <p><b>Marketing</b></p> <p>Providers of networks and electronic communications services (e.g., providers of internet services, fixed or mobile telephony services, radio or TV services and cable services) are required to comply with the decisions of the Romanian Commission for authorizing the foreign exchange activity regarding the access restriction to the websites of:</p> <ul style="list-style-type: none"> <li>– providers of exchange services between virtual currencies and fiduciary currencies; and</li> <li>– unauthorized digital wallet service providers.</li> </ul> |  |
| <p>When Regulation on markets in cryptoassets (<b>MiCA Regulation</b>) comes into force this will change as the issuance of tokens and the cryptoassets service providers activities will be regulated.</p> |  |  |

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# Spain

| Question  | AML Regulation  | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) was transposed into Spanish Law through Royal Decree-Law 7/2021, of 27 April (<b>RD-Law 7/2021</b>).</p> <p>Such RD-Law 7/2021 also introduced the most relevant amendments on Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing (<b>Law 10/2010</b>) including as obliged entities the exchanges of virtual currency for fiat and e-wallet custodian service providers.</p>   | <p>Spain</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>These activities are not regulated in Spain (i.e., there are no specific rules on how the activities may or may not be carried out). Consequently, until the Regulation on Markets in Cryptoassets (<b>MiCA</b>) comes into force, <b>there is no license required</b> to undertake these activities.</p> <p>Notwithstanding, in terms of Law 10/2010, Spain has considered that:</p> <ul style="list-style-type: none"> <li>– Cryptocurrency exchanges; and</li> <li>– Cryptocurrency custody providers that operate in Spain,</li> </ul> <p>are required to be registered before the “<i>Special Registry of exchange of virtual currency for fiat currency and electronic wallet custodian service providers</i>”, that is under supervision of the Bank of Spain, in accordance with additional disposition two of Law 10/2010 on AML.</p> <p>Considering the aforementioned, (i) borrowing/lending; and (ii) yield/staking in cryptoassets are not regulated and do not have specific requirements to be met.</p> | <p>These activities are not regulated in Spain for cryptoasset businesses. Nevertheless, in the event that a cryptoasset is considered as a financial instrument, the Spanish and European financial markets regulation shall apply in the performance of such activities.</p> |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>As previously stated, there is currently no license to be obtained in Spain.</p> <p>Nevertheless, when MiCA comes into force this will change as the issuance of tokens and the cryptoassets service providers activities will be regulated.</p> <p>In terms of the “<i>Special Registry of exchange of virtual currency for fiat currency and electronic wallet custodian service providers</i>”, the legal frame is 3 months, but the Bank of Spain usually makes additional information requirements</p>  | <p>N/A</p>   |

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|  | in order to restart such time frame. The average is usually around 5-6 months.  |   |
| <b>What would be the approximate overall cost of obtaining a licence?</b>  | <p>Please consider our previous answers.</p> <p>The cost of registration will depend on the type of activity intended to be carried out and will depend on the level of development the entity already has in terms of AML and the effort required to adapt it.</p>   | N/A   |
| <b>What is the probability (%) of success in obtaining a licence?</b>  | <p>Please consider our previous answers.</p> <p>The probability of success will be dependent on the type of activity intended to be carried out (e.g., the requirements for licensing as e-money tokens issuers under MiCA will be one of the most exhaustive and therefore with the most requirements to comply with).</p> <p>In terms of the “<i>Special Registry of exchange of virtual currency for fiat currency and electronic wallet custodian service providers</i>”, the success rate is quite high (around 70%). However, it should be noted that registration is usually obtained after several requests from Bank of Spain (the average is around 3 requests) in which additional information is sought.</p>  | N/A   |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b></p> <p><b>E.g., Compliance requirements and physical presence</b></p> | <p>Regarding AML there are no additional requirements besides the “<i>Special Registry of exchange of virtual currency for fiat currency and electronic wallet custodian service providers</i>”.</p> <p>However, in order to successfully comply with this registration, there are some documentation requirements to be met:</p> <ul style="list-style-type: none"> <li>– To fill in the corresponding form according to the intended activity (a) exchange of virtual currencies for fiat currencies (CRIPTO01); and/or (b) custody of electronic wallets (CRIPTO03).</li> <li>– To fill in a general form (CIPTO005) corresponding to suitability assessment for the applicant legal entity and, a suitability assessment form for each of the natural persons effectively managing the entity, signed by each of them.</li> <li>– Criminal record certificate of the applicant legal entity and of each of the natural persons who effectively manage the entity.</li> <li>– Copy of the national identity card/NIE/NIF/foreign identification document of the legal entity applying for registration and, in addition, of all</li> </ul> | <p><b>Advertising of cryptoassets:</b></p> <p>Spanish National Securities Market Commission (<b>CNMV</b>) Circular 1/2022, relating to the advertising of cryptoassets presented as investments defines the objective and subjective scope of cryptoasset advertising, establishes the criteria to be followed when promoting these assets, and provides for a supervisory regime including prior notification of such advertising activity.</p> <p>All advertising of cryptoassets made by a natural or legal person to investors, including potential investors, in Spain in which such assets are implicitly or explicitly offered or marketed as an investment are subject to this Circular.</p> <p>This is presumed to be the case when the purchase of cryptoassets is promoted, or where reference is made to current or future profitability, price or value of such cryptoassets, suggesting them to be an investment opportunity,</p> |

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|  | <p>the natural persons who effectively manage the entity.</p> <ul style="list-style-type: none"> <li>– Anti-Money Laundering and Terrorist Financing Manual, including certain specific information such as customer admission policy; description of customers who may entail a higher-than-average risk and the measures to be taken to mitigate it; due diligence procedure; internal information flows; functioning of internal control bodies, among others.</li> <li>– Risk analysis policy, including certain specific information such as identification and assessment of risks based on types of customers, countries or geographic areas, products, services, operations and distribution channels; information on the business model, services offered and characteristics of the entity; foreign exchange flows, whenever carried out; any other factors that may be considered to be risk factors.</li> </ul> <p>Finally, <b>no physical presence is required to successfully comply with the registration.</b></p> | <p>even when they can be used as a medium of exchange.</p> <p>Certain advertising activities are excluded from the scope of the Circular, such as the advertising of cryptoassets (i) that cannot be, due to their nature, the object of investment, (ii) that are considered financial instruments, (iii) that are considered as utility tokens, and provided that no revaluation expectations are offered and where the volume and conditions offered are consistent with the inherent rights associated with the cryptoasset in question, (iv) that are considered as NFTs which are not offered as a mere investment.</p> <p>The Circular also does not apply to (i) white papers of new cryptoasset issuances, (ii) corporate advertising campaigns with generic information about the cryptoasset provider, including sports sponsorships, (iii) presentations to analysts or institutional investors; (iv) independent analyst publications that are not sponsored or promoted; and (v) advertising for cryptoasset courses or workshops that encourage investment in cryptoassets and are not offered free of charge or for a symbolic price.</p> <p>The CNMV will carry out an ex-post control, excluding mass advertising campaigns (those aimed at more than 100,000 people through any advertising medium) which will be subject to ex-ante supervision, with the CNMV requiring at least ten working days prior notification of the campaign before it is launched.</p> |
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# Sweden

| Question   | AML Regulation  | Financial Services Regulation  |
|--|---|--|
| <p>How is crypto regulated?</p> <p>Are the following activities regulated or unregulated in your jurisdiction?</p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>Directive (EU) 2018/843, amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, has been implemented in Swedish law (the Swedish Money Laundering and Terrorist Financing (Prevention) Act (2017:630) (the <b>Swedish AML Act</b>)).</p> <p>Providers that must register with the Swedish Financial Supervisory Authority (the <b>Swedish FSA</b>) under the Certain Financial Operations Act (1996:1006) (<b>CFOA</b>) are subject to the Swedish AML Act. As set forth in the FSR column, providers engaged professionally in exchange services between virtual currencies and fiat currencies, electronic money (according to the Swedish Act on Electronic Money (2011:755) (the <b>EMA</b>)) or other virtual currencies and custodian wallet providers are subject to the CFAO, and, accordingly, also to the Swedish AML Act. Please see further information in the FSR column.</p> | <p>The CFAO regulates providers that are engaged professionally in:</p> <ul style="list-style-type: none"> <li>– exchange services between virtual currencies and fiat currencies (including exchange services between different virtual currencies and between virtual currencies and electronic money under EMA), or</li> <li>– the provision of services to safeguard private cryptographic keys on behalf of its customers, to hold, store and transfer virtual currencies (i.e. custodian wallet providers),</li> </ul> <p>a provider of such services must be registered with the Swedish FSA.</p> <p>It is currently unclear whether the Swedish FSA would consider activities such as borrowing/lending and yield/staking of crypto assets to be regulated activities under the CFOA.</p> <p>Based on previous contacts with the Swedish FSA, we understand that the Swedish FSA’s position is that the CFOA does not apply to non-Swedish entities without a physical presence in Sweden.</p> |
| <p>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</p>   | <p>Please see our answer under the FSR column.</p>  | <p>The Swedish FSA’s processing time for an application for registration under the CFOA is 90 days. The clock starts when the Swedish FSA considers the application complete and has received the processing fee.</p> <p>The time required to prepare an application varies depending on the setup and the possibility to leverage existing documentation.</p>   |
| <p>What would be the approximate overall cost of obtaining a licence?</p>  | <p>Please see our answer under the FSR column</p>   | <p>The SFSA’s processing fee for a registration to provide services related to virtual currency is SEK 65,000 (for legal persons).</p> <p>Legal fees vary depending on setup and the possibility to leverage existing documentation.</p>   |

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| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>   | <p>Please see our answer under the FSR column.</p> | <p>The SFSA shall register persons who have provided notification where:</p> <ul style="list-style-type: none"> <li>– there is reason to believe that the operations will be conducted in a manner which is consistent with the Swedish AML Act and regulations issued pursuant to the AML Act; and</li> <li>– the owners and management satisfy the suitability requirement.</li> </ul> <p>While the success rate depends on the circumstances in each individual case, the CFOA registration regime is relatively light.</p> |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/>E.g., Compliance requirements and physical presence</p> |  | <p>The requirements are expected to vary depending on the setup in Sweden (e.g. whether the services are provided through a Swedish entity or a branch office). We are not aware of any hard requirements with respect to minimum number of FTEs, however, the company must be able to execute on AML policies etc.</p>  |

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# Switzerland

| Question                               | AML Regulation   | Financial Services Regulation   |
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| <p><b>How is crypto regulated?</b></p> | <p>Main AML regulations:</p> <ul style="list-style-type: none"> <li>– Swiss anti-money laundering act (<b>AMLA</b>)</li> <li>– Swiss anti-money laundering ordinance (<b>AMLO</b>)</li> <li>– FINMA anti-money laundering ordinance (<b>AMLO-FINMA</b>)</li> <li>– Self-Regulated Organization (<b>SRO</b>) rules               <ul style="list-style-type: none"> <li>– AML rules essentially require the financial intermediary (other than a bank, Fintech licensed institution, securities firms, asset managers, DLT trading platform) to be registered with an SRO. Registered and not registered financial intermediaries are subject to the same AML rules and yearly audit requirements.</li> </ul> </li> </ul> | <p>Main financial services regulations:</p> <ul style="list-style-type: none"> <li>– Banking Act (<b>BA</b>) and Banking Ordinance (<b>BO</b>) – Ordinary banking license.</li> <li>– Financial Market Infrastructure Act (<b>FMIA</b>) – DLT trading facility license, which enables multilateral trading of tokens qualifying as securities (<b>DLT securities</b>) and possibly other assets. In addition to trading, the DLT trading facility license allows for the custody of DLT securities as well as settlement and clearing of transactions in DLT securities.</li> <li>– Fintech rules (specific regime in the <b>BA/BO</b>) – a FinTech license allows institutions to accept public deposits of up to CHF 100 million, provided that these are not invested and no interest is paid on them. Besides that, a Fintech license also allows institutions to accept crypto-based assets as (pooled) deposit values up to a maximum amount to be defined by FINMA for the specific cases, again, provided that these are not invested and no interest is paid on them.</li> <li>– Financial Institutions Act (if the token is qualified as a financial instrument) (<b>FinIA</b>) – Asset/Portfolio Management licenses or securities firms license.</li> <li>– Financial Services Act (if the token is qualified as a financial instrument) (<b>FinSA</b>) – FinSA does not trigger licensing requirements, but may trigger a registration requirement and entails the application of certain rules of conduct and documentation for undertakings within its scope of application.</li> </ul> <p>– On 1 August 2021, the new Swiss DLT-Act fully entered into force. Drawn up as a blanket Act providing for selective adjustments in a total of nine Swiss federal laws, it has, in particular, introduced the following:</p> <ul style="list-style-type: none"> <li>– Civil law: Introduction of ledger-based securities, which are represented on the blockchain (i.e. register uncertificated securities).</li> <li>– Financial market infrastructure law: Introduction of a new infrastructure authorization type, the so-called DLT trading facility for the multilateral trading of DLT-securities.</li> <li>– Insolvency and banking law: Introduction of significant clarifications to Swiss insolvency and banking law, setting out the requirements for digital assets to be segregated from the bankrupt’s estate of the custodian.</li> </ul> |



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|   | <ul style="list-style-type: none"> <li>– Generally and pursuant to FINMA’s practice, every token/crypto-business needs to be assessed based on its own merits and under existing “standard” regulation.</li> <li>– In doing so, FINMA categorizes every token in one of the following categories: payment, utility or asset token (plus the residual category of hybrid token).</li> <li>– Crypto-currencies are generally qualified as payment tokens pursuant to FINMA practice. FINMA follows a matter-over-form-approach, which makes it necessary to check the specific usage and characteristics of a given token and not the terminology.</li> <li>– Pure utility tokens are generally not subject to Swiss financial market regulations.</li> <li>– Asset tokens may qualify as financial instruments and/or securities (securities are financial instruments, but for instance OTC derivatives are not securities but remain financial instruments).</li> </ul> |  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <ul style="list-style-type: none"> <li>– Exchange of crypto-currencies (payment tokens) is <i>a minima</i> regulated under the AMLA/AMLO (mere registration and KYC/KYT rules, plus audit on compliance with KYC/KYT-AML rules).</li> <li>– Custody services are generally subject to the requirements of the AMLA/AMLO.</li> <li>– Lending activities are at least regulated under the AMLA/AMLO.</li> <li>– Yield/farming of native tokens or “pure” crypto-currencies is not <i>per se</i> regulated, but, depending on the set-up, may be regulated under the AMLA/AMLO (if such activities are conducted on behalf of a client by a third party intermediary).</li> </ul>   | <ul style="list-style-type: none"> <li>– The exchange/trading of tokens that qualify as securities is regulated under the FMIA (see for instance SDX on <a href="https://www.sdx.com">https://www.sdx.com</a>).</li> <li>– Custody is regulated under the BA/BO or Fintech rules (<i>see above, first question</i>; under such rules, in particular, if more than CHF 100 million are under custody, a fully-fledged banking license is required, if the assets qualify as public deposits).</li> <li>– Security custody (if the token qualifies as a security) can possibly trigger a licensing requirement under the FMIA in certain circumstances.</li> <li>– Borrowing is regulated under the BA/BO (i.e. whoever refinances itself to a considerable extent with several banks in which it does not hold a significant interest, in order to finance in any way for its own account an indefinite number of persons or undertakings with which it does not form a single economic unit requires a banking license).</li> <li>– Companies involved in trading activities, which entail the execution of trades on tokens that qualify as securities on behalf of their clients require a license as a securities firm under the FinIA (own account trading is also regulated if certain thresholds are met).</li> <li>– Lending activities can be regulated under the BA/BO (excluding consumer loans that are regulated under the Credit Consumer Act), if the lending activity is similar to the credit activity of a bank (where borrowed money is lent to other clients with a spread on the interest).</li> <li>– Yield/staking of asset tokens can possibly trigger a licensing requirement under the FinIA in certain circumstances.</li> </ul> |



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|   | <ul style="list-style-type: none"> <li>– On-chain segregated custody of crypto-currencies or other digital assets (including asset tokens/securities or utility tokens) does generally not trigger BA/BO licensing requirements.</li> <li>– Under certain circumstances, the acceptance of ‘public deposits’ is not deemed to be at hand, if fiat or crypto-currencies, which are used solely for the settlement of client transactions, are kept for less than 60 days in the account of the institution.</li> </ul> |   |
| <b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b>  | Approximately 6-9 weeks for AML-only regulated business.  | <ul style="list-style-type: none"> <li>– Approximately 18-36 months for a bank under BA/BO, securities firm under FinIA or DLT trading facilities under FMIA.</li> <li>– Approximately 5-9 months for a Fintech license.</li> </ul>   |
| <b>What would be the approximate overall cost of obtaining a licence?</b>   | Application fee of the SRO approximately amounts to CHF 2'000 plus VAT. In addition, further fees will occur, such as for audits, annual membership fees of the respective SRO, trainings, consulting services, etc.<br>Legal and other professional fees will be necessary.  | Application fee of the FINMA will depend on the particular case.<br>Legal and other professional fees will be necessary.  |
|   | <b>DISCLAIMER:</b> The effective overall cost of obtaining a license will highly depend on the individual case and details.   |   |
| <b>What is the probability (%) of success in obtaining a licence?</b>   | More than 80% for AML registrations, provided that the business plan is clear and the rest of the documentation is complete and well organized (in particular with respect to fit-and-proper test on directors, executive members and qualified shareholders).  | <ul style="list-style-type: none"> <li>– More than 70% for a Fintech license, if the business plan provided is clear (in particular with respect to fit-and-proper test on directors, executive members and qualified shareholders) and the rest of the documentation is complete and well organized.</li> <li>– Depending on the business case, FINMA will generally investigate “heavy” license applications for institutions such as banks, securities firms and DLT trading platforms very thoroughly.</li> </ul>   |
|   | <b>DISCLAIMER:</b> All of these probabilities are pure estimates and do not provide any guarantee on the outcome of the licensing process. The effective probability will highly depend on the individual case and details.   |   |
| <b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?<br/>E.g., Compliance requirements and physical presence</b> | Substance in Switzerland is generally required including for “mere” AML-type of license/registration.   | <ul style="list-style-type: none"> <li>– A Fintech license requires compliance/risk functions to be implemented (but can be outsourced to a qualified third party if supervision is ensured).</li> <li>– A banking license and other “heavy” licenses, such as the securities firm, DLT trading facility and banking license also require a risk/compliance function; in addition, corporate governance must also be implemented and financial requirements will apply (minimum capital and capital adequacy apply, including liquidity ratio, unless exemption is available).</li> </ul> |

Among other conditions, the prerequisites for obtaining a banking license are:

- fully paid-up minimum capital of at least CHF 10 million;
- effective management of the bank from Switzerland;
- separation of board of directors and executive management;
- effective separation of internal functions – in particular lending, trading, asset management and settlement;
- effective internal control systems, internal audit function independent of executive management;
- applicants under foreign control (additional licensing requirement if the bank is controlled by a foreign shareholder): reciprocal rights on the part of the countries where qualified participants are domiciled;
- if the bank is part of a financial group: adequate consolidated supervision by a recognized supervisory authority.

Among other conditions, the prerequisites for obtaining a Fintech license are:

- fully paid-up and permanently held minimum capital of 3 percent of the accepted public deposits and the accepted crypto-based assets held in collective custody, but at least 300,000 Swiss francs;
- effective management of the FinTech from Switzerland;
- at least one third of the members of the board of directors must be independent of the executive management;
- effective internal control systems, independent of the profit-oriented business within the company;
- applicants under foreign control (additional licensing requirement if the FinTech is controlled by a foreign shareholder): reciprocal rights on the part of the countries where qualified participants are domiciled;
- –if the Fintech company is part of a financial group: adequate consolidated supervision by a recognized supervisory authority.

Facilitated regulatory requirements for a Fintech company, compared to a bank include:

- Accounting and financial reporting.
- Accounting for Fintechs is governed exclusively by the provisions of the Code of Obligations. Accordingly, bank-specific regulations such as Art. 6 et seq. BA and Art. 25 et seq. BO do not apply to them.
- Audit under the law of obligations.
- Fintechs must have their annual financial statements and, if applicable, their consolidated financial statements audited in accordance with the provisions of the CO.
- Supervisory audit:  
Fintechs may be audited by persons for whom less stringent admission requirements may apply compared to bank auditors. However, this facilitation only concerns the selection of the audit firm. The audit obligation within the meaning FINMASA exists nevertheless.
- Capital adequacy and deposit insurance:  
Fintech companies are not subject to the provisions of the Capital Adequacy Ordinance or the Liquidity Ordinance. Thus, in principle, only 3% of public deposits and collectively held crypto-based assets, but at least CHF 300,000, are mandatory as minimum capital. However, the BO allows FINMA to impose a higher minimum capital requirement in individual cases if this appears to be necessary.
- Deposit insurance:  
Fintech companies do not have to join Esisuisse as a self-regulation for deposit insurance and are exempt from the higher liquidity requirements

applicable to deposit insurance. However, they must clearly communicate this exemption to customers before they make deposits.

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# Slovenia

| Question   | AML Regulation  | Financial Services Regulation   |
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| <p><b>How is crypto regulated?</b></p> <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>The Slovenian Prevention of Money Laundering and Terrorist Financing Act (ZPPDFT-2) transposed 5MLD and also followed the latest FATF recommendation when regulating virtual currency services and their service providers. Accordingly, the scope of the definition of virtual currency services is broader than that of 5MLD:</p> <p><i>Virtual currency services are the following services that a natural or legal person provides as part of their business or professional activity for a third party:</i></p> <ul style="list-style-type: none"> <li>(a) <i>exchange between fiat and virtual currencies,</i></li> <li>(b) <i>exchange between one or more types of virtual currencies,</i></li> <li>(c) <i>transfer of virtual currencies between different accounts or addresses,</i></li> <li>(d) <i>safekeeping or management of virtual currencies, including the provision of private cryptographic key protection services on behalf of its customers, for the safekeeping, storage and transfer of virtual currencies,</i></li> <li>(e) <i>services related to the issuance or sale of virtual currencies.</i></li> </ul> <p>In defining virtual currency service providers (as obliged entities), ZPPDFT-2 further expands its scope to also include “<i>other transactions included in these services</i>”.</p> <p>ZPPDFT-2 defines virtual currency as: “<i>a digital form of value that is not issued or guaranteed by a central bank or a public authority and that is not necessarily tied to a legally introduced currency and does not have the legal status of a currency or monetary asset, but is accepted by natural or legal persons as a medium of exchange that can be electronically transmitted, stored and exchanged.</i>”</p> <p><b>Exchange (buy/sell): YES</b></p> <p>The exchange of virtual currency for fiat currency and for other virtual currency are regulated activities (falls under paragraphs (a) and (b) above).</p> | <p>In principle, none of these activities are specifically regulated.</p> <p>It should be noted that in 2018, the Bank of Slovenia issued an opinion that virtual currencies are not classified as electronic money (<b>e-money</b>) under the Payment Services, Services for Issuing Electronic Money and Payment Systems Act (<b>ZPlaSSIED</b>), which transposes the EMD2. However, due to developments in forms and designs of crypto currencies in recent years, in our opinion it cannot be excluded that with respect to some crypto currencies, existing regulations should be applied (e.g. certain stablecoins may meet the criteria for e-money - in which case a license of a payment institution or an e-money institution may be required).</p> |

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|   | <p><b>Custody (hold): YES</b><br/>Custody of virtual currency is a regulated activity (falls under point (d) above).</p> <p><b>Borrowing/lending: YES</b><br/>Depending on the specifics of the borrowing/lending model, such activities could incidentally include any of the regulated activities under points (a) through (d) above.</p> <p><b>Yield/staking: YES</b><br/>Depending on the specifics of the yield/staking model, such activities could incidentally include any of the regulated activities under points (a) to (d), as well as point (e) above (e.g. in case of “<i>liquid staking</i>”).</p> <p>All virtual currency service providers with a registered seat or branch office in Slovenia are obliged to register with the register of virtual currency service providers before starting to provide their services. The register is managed and maintained by the Office of the Republic of Slovenia for the Prevention of Money Laundering.</p> |  |
|   | <p>A company in Slovenia is usually established as a limited liability company (in Slovenian: <i>družba z omejeno odgovornostjo</i> (d.o.o.)).</p>  |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>For establishing a company, approx. 2 – 8 weeks are needed, with the duration of the process very much depending on the client availability to collect, execute and deliver the necessary documents and information.</p> <p>The process for registration with the Office of the Republic of Slovenia for the Prevention of Money Laundering takes in general a couple weeks, but may take longer in case of beneficial owners from other countries or in case of more complex documentation.</p>   |  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>  | <p>Usual costs of establishing a standard limited liability company consist of (i) notary fees approx. EUR 300-500, (ii) translation fees approx. EUR 100 - 200, (iii) legal advisory cost approx. EUR 2,000 - 3,000, which gives a total of approx. EUR 2,500 - 3,500.</p>   |  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/><b>E.g., Compliance requirements and physical presence</b></p> | <p>The Office of the Republic of Slovenia for the Prevention of Money Laundering Prevention rejects the request for entry in the register if the legal representative, manager, person carrying out the activity of a self-employed individual or an individual engaged in an independent activity, or the ultimate beneficial owner of the virtually currency services provider, has been convicted:</p> <ul style="list-style-type: none"> <li>– for a criminal act committed with intent, which is prosecuted <i>ex officio</i>; or</li> <li>– for one of the following criminal acts committed through negligence: concealment, disclosure and</li> </ul>   |  |

unauthorized acquisition of trade secrets, money laundering or disclosure of classified information, as long as the legal consequences of the conviction last.

Please note that with respect to establishing a company, a bank account needs to be opened. However, Slovenian banks are usually very cautious when opening bank accounts for companies intending to set up a cryptoasset business. In order to avoid unnecessary delays, we advise to check this matter with the respective bank before initiating any other activities.

#### **EU MiCA Regulation**

The regulatory process for virtual currencies and related service providers has started at European level, and negotiations between Member States are currently conducted on the basis of the European Commission's proposal for a Regulation on markets in cryptoassets (**MiCA Regulation**). Please note that the MiCA Regulation will be directly applicable in Slovenia as in any EU Member State.

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# Slovakia

| Question  | AML Regulation  | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) was transposed into Slovak law by way of an amendment to the Slovak AML Act (Act No. 297/2008 Coll., as amended) and covers persons providing services related to virtual currencies, not mentioning the crypto assets.</p>   | <p>Financial services are regulated by a wide range of legal Acts and Regulations, in particular the Payment Services Act (Act no. 492/2009 Coll.), the Securities Act (Act no. 556/2001 Coll.), Financial Intermediation Act (Act no. 186/2009 Coll.) and the Stock Exchange Act (Act no. 429/2002 Coll.).</p> <p>Crypto assets are not covered by a specific Slovak financial services regulation. The Slovak regulators are awaiting for MiCA regulation.</p>   |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– <b>Exchange (buy/sell)</b></li> <li>– <b>Custody (hold)</b></li> <li>– <b>Borrowing/lending</b></li> <li>– <b>Yield/staking</b></li> </ul> | <p>The AML Act regulates provision of virtual currency (payment tokens) services. Operator of the virtual currency exchange or provider of virtual currency wallet services in the Slovak Republic is considered an obliged entity under the AML Act and therefore regulated as such. Therefore, operation of virtual currency exchange and provision of service of virtual currency wallet (custody) are regulated by the AML Act.</p> <p>Lending/ borrowing and yield farming / staking is not separately covered as a regulated activity. However, when included in operation of virtual currency exchange or provision of virtual currency wallet services, the activity is regulated.</p> <p>All crypto asset related service providers need to follow the rules on identification and due diligence of their clients, establish internal policies, report suspicious activities and other AML/CTF requirements.</p> | <p>No financial service license for buying/ selling or exchange of crypto assets is required.</p> <p>The same should also apply to custody of cryptocurrencies, provided that no portfolio management service is provided.</p> <p>No financial service license is required for borrowing/lending of crypto assets, except for a trade license issued by the Slovak Trade Authority. However, it is not clear whether lending of crypto assets, or borrowing against crypto assets when provided to consumers would not require a specific consumer credit license.</p> <p>Providing services related to virtual assets, especially operation of virtual currency exchange or provision of service of virtual currency wallet (custody) in the Slovak Republic on a continuous basis for profit would require a specific trade license issued by the Slovak Trade Authority.</p> <p>Mining or validating transactions do not require a license.</p> <p>Certain other services, such as trading with exchange tokens, derivatives or management of assets containing crypto assets would require a MiFID II or AIFM license.</p> |



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| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p> | <p>There is no need to establish a license under AML regulations.</p> <p>The obliged person must follow the Slovak AML rules with respect to services carried out within the Slovak Republic.</p> | <p>Acquiring trade license is a relatively easy and straightforward process.</p> <p>Once the standard corporate documents are gathered, it may be obtained within five business days.</p> <p>In case of a non-Slovak citizen who would be the executive director of the entity applying for the trade license, the proof of completed high school / secondary grammar school education is required. Also, a non-OECD citizen would need to have the residence permit.</p> <p>Obtaining a consumer credit license, payment institution/EMI license or another financial license (under MiFID II or AIFM) would take approx. 8 to 20 months.</p>  |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>                                | <p>N/A</p>  | <p>Obtaining the trade license usually costs between EUR 3,000-5,000. The highest costs relate to obtaining and translating the corporate documents, if needed. The above estimate does include the cost of establishment of a branch and a subsidiary that will likely be required.</p> <p>To the above advisory services should be added the following costs:</p> <ul style="list-style-type: none"> <li>- One-time court fee for registration with the Commercial Register EUR 150.</li> <li>- Fee for the notarization of the signature depends on the country of notarization (for Slovakia up to EUR 4 per signature).</li> <li>- Fee for official translation by a certified Slovak translator to the Slovak language EUR 25 – 35 per page for translation.</li> </ul> <p>The cost of obtaining a financial license (consumer credit license, payment institution/EMI license or other financial license (under MiFID II or AIFM)) if needed, will be considerably higher.</p> |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>                                    | <p>N/A</p>  | <p>Obtaining a trade license is a straightforward exercise, however; the Trade Authority will require that the service provider has a branch or a subsidiary established in the Slovak Republic, unless the trade license is sought by an EU entity.</p>  |

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|  |  | <p>The rejection of granting the license is unlikely.</p> <p>Obtaining a financial license is relatively difficult and complicated, however; if all conditions for issuing the license are met, the National Bank of Slovakia must issue the license.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/> <b>E.g., Compliance requirements and physical presence</b></p> | <p>Some requirements are set out below, however; this is not an exhaustive list. It is necessary to:</p> <ul style="list-style-type: none"> <li>– take appropriate steps to identify and assess the risks of money laundering and terrorist financing which the business is subject to;</li> <li>– assess the ML/TF risks related to any new technologies prior to launch and take appropriate measures to manage and mitigate those risks;</li> <li>– undertake customer due diligence (CDD) when entering into a business relationship or occasional transactions;</li> <li>– apply more intrusive due diligence, known as enhanced due diligence (EDD), when dealing with customers who may present a higher risk; and</li> <li>– ML/TF risk. This includes customers who meet the definition of a politically exposed person (PEP).</li> </ul> | <p>There are currently no specific Slovak regulations in relation to crypto assets. The National Bank of Slovakia follows the views of the EBA and other EU authorities in respect of crypto assets regulations.</p> <p>There are no clear rules or guidelines to define activities as continuous in the Slovak Republic. However, a business activity provided for six months or more in the Slovak Republic is generally deemed a continuous activity.</p> |

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# United Kingdom

| Question  | AML Regulation   | Financial Services Regulation  |
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| <p><b>How is crypto regulated?</b></p>  | <p>The Fifth Money Laundering Directive (<b>5MLD</b>) extended the Fourth Money Laundering Directive (<b>4MLD</b>) regime to “providers engaged in exchange services between virtual and fiat currencies” and to “custodian wallet providers”.</p> <p>Prior to UK’s exit from the EU, 5MLD was transposed into UK national law via amendments to The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs).</p>   | <p>Financial services are regulated under the Financial Services and Markets Act 2000 (<b>FSMA</b>) and other legislation, most notably The Electronic Money Regulations 2011 and The Payment Services Regulations 2017.</p> <p>Authorisation and enforcement under FSMA and the other legislation above is principally overseen by the Financial Conduct Authority (<b>FCA</b>).</p> <p>At present no legislation has been made in respect of the regulation of cryptoassets <i>per se</i>. There is a draft bill in Parliament relating to the regulation of stable coin service providers and issuers. There is also a proposal for legislation in respect of the promotion of cryptoassets.</p>  |
| <p><b>Are the following activities regulated or unregulated in your jurisdiction?</b></p> <ul style="list-style-type: none"> <li>– Exchange (buy/sell)</li> <li>– Custody (hold)</li> <li>– Borrowing/lending</li> <li>– Yield/staking</li> </ul> | <p>The only regulation in respect of cryptoassets <i>per se</i> in the UK at present is under the MLRs, in connection with anti-money laundering (<b>AML</b>) and counter-terrorist financing (<b>CTF</b>). Under the MLRs, the Financial Conduct Authority (FCA) is the AML and CTF supervisor for certain cryptoasset service providers in the UK.</p> <p>MLRs prohibit certain cryptoasset service providers from operating in the UK unless they are registered with the FCA. The FCA then supervises their compliance with the MLRs.</p> <p>On January 10, 2020, the FCA became the AML and CTF supervisor for the following cryptoasset service providers under the MLRs:</p> <ul style="list-style-type: none"> <li>– Cryptoasset exchanges, i.e., persons exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money, money for cryptoassets or one cryptoasset for another.</li> <li>– Custodian wallet providers, i.e. persons providing services to safeguard, or to safeguard and administer:</li> </ul> | <p>Strictly speaking, cryptoassets and cryptoasset services are not regulated in the UK at present. The FCA has published guidance to the effect that it will take a technologically neutral approach to application of existing financial services regulation in respect of cryptoassets. If a cryptoasset has the characteristics of a regulated investment under FSMA, e.g. a share in a company, a debenture or e-money, then exchange and custody of that cryptoasset will likely entail regulated activities such as dealing in investments and safeguarding investments.</p> <p>Borrowing/lending of cryptoassets is not explicitly regulated in the UK. It is arguable that lending of cryptoassets to consumers could fall within scope of consumer credit regulation, but the FCA does not appear to have sanctioned any firms or made any public announcements in this regard.</p> <p>Yield/staking is a complicated area. Depending on the business model and detail of the transactions, it can be arguable either way that</p> |

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|  | <ul style="list-style-type: none"> <li>– Cryptoassets on behalf of its customers; or</li> <li>– Private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.</li> <li>– Crypto ATMs, i.e. persons operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets.</li> </ul> <p>Cryptoasset businesses which fall within the above criteria are required to register with the FCA (following which they are listed on its cryptoasset register) in order to operate in the UK.</p> <p>Additionally, a cryptoasset business will need to demonstrate that it has policies, controls and procedures in place to effectively manage money laundering and terrorist financing risks proportionate to the size and nature of the business' activities.</p>  | <p>yield/staking is within scope of the collective investment scheme regulations. Again, the FCA does not appear to have sanctioned any firms or made any public announcements in this regard. However, we are aware that the FCA has challenged certain firms regarding their yield/staking products on the basis that they may be collective investment schemes. In its recent consultation on the future regulatory regime for cryptoassets, HM Treasury has suggested that staking services could entail the operation of a collective investment scheme.</p> |
|  | <p>There are no rules applicable to the promotion of cryptoassets <i>per se</i> in the UK at present. However, we expect that rules will be made soon under the financial promotions regime.</p> <p>Section 21 of FSMA prohibits persons from communicating a financial promotion, i.e. an invitation or inducement to engage in investment activity, unless it is made or approved by an authorised person or it is made by an exempt person.</p> <p>FSMA defines “investment activity” as:</p> <ol style="list-style-type: none"> <li>1. entering or offering to enter into an agreement the making or performance of which by either party constitutes a controlled activity; or</li> <li>2. exercising any rights conferred by a controlled investment to acquire, dispose of, underwrite or convert a controlled investment.</li> </ol> <p>Persons/businesses must therefore not promote “controlled investments” and related “controlled activities”. If a cryptoasset is considered to be a “security token”, then it will likely constitute a “controlled investment”, and therefore caught within the list of controlled investments under the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (FPO) and will be subject to the rules on Financial Promotions in the FCA Handbook.</p> <p>HM Treasury recently confirmed that the restriction of financial promotions set out in s.21 of FSMA will in future apply to a newly defined category of “qualifying cryptoassets”, which will be added to the list of controlled investments under the FPO. The new category seeks to include unregulated cryptoassets e.g., “exchange tokens” such as bitcoin and ether, as well as utility tokens. HM Treasury also recently announced an exemption from the s.21 FSMA prohibition for firms registered by the FCA under the MLRs, such that they may communicate their own promotions (but may not approve those of others). We expect the relevant legislation to be published soon, with a transition period of four months.</p> <p>Notable exceptions to the new category of “qualifying cryptoassets” will include:</p> <ol style="list-style-type: none"> <li>1. Non-fungible tokens (NFTs) (given they are generally not interchangeable). However, it is important to note that NFTs will be assessed on a case-by-case basis, especially where a fungible token is wrapped in an NFT;</li> </ol> |   |

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|   | <p>2. Non-transferable cryptoassets e.g., travel passes, supermarket loyalty schemes; and</p> <p>3. E-money and currency issued by a bank or public authority, e.g. CBDCs.</p> <p>Additionally, the Advertising Standards Authority’s (ASA) Committee of Advertising Practice’s Enforcement Notice on the Advertising of Cryptoassets (CAP Notice) provides promotional rules.</p>  |  |
| <p><b>How long would establishing a cryptoasset business/obtaining a license in your jurisdiction take?</b></p>   | <p>Historically, applications under the MLRs have taken between three months, at best, and over two years, at worst. We understand that the FCA now expects new applications to be processed in around six to eight months, but this remains to be proven.</p>  | <p>Processing times for applications under FSMA will vary from six months to a year depending on the activity requiring authorisation. However, where cryptoassets or cryptoasset services are involved in the business model, an application will be subject to additional scrutiny and may take longer. In such circumstances, the FCA will also be likely to tie a FSMA application to any MLRs application (and vice versa).</p> |
| <p><b>What would be the approximate overall cost of obtaining a licence?</b></p>  | <p>Application fee is £2,000, where forecast first-year revenues from cryptoasset services are lower than £250,000, or £10,000 if higher.</p> <p>Legal and other professional fees will be necessary.</p>   | <p>Application fee will depend on the particular application.</p> <p>Legal and other professional fees will be necessary.</p>  |
| <p><b>What is the probability (%) of success in obtaining a licence?</b></p>  | <p>Historically, the success rate has been about 10-20%. However, the overwhelming majority of initial applicants were ill-advised and their applications ill-prepared. A well-advised applicant with a high-quality application should expect their application to be approved.</p>  | <p>The FCA has recently announced that it will be setting a much higher bar for approving applications for authorisation. In particular, applicants will be expected to demonstrate that they will have a successful and sustainable business model, in addition to satisfying compliance requirements.</p>  |
| <p><b>What other limitations are there in your jurisdiction when looking to set up a cryptoasset business?</b><br/><b>E.g., Compliance requirements and physical presence</b></p> | <p>Some requirements are set out below, however this is not an exhaustive list:</p> <ul style="list-style-type: none"> <li>– take appropriate steps to identify and assess the risks of money laundering and terrorist financing;</li> <li>– assess the ML/TF risks related to any new technologies prior to launch and take appropriate measures to manage and mitigate those risks;</li> <li>– undertake customer due diligence (CDD); and</li> <li>– apply more intrusive due diligence, known as enhanced due diligence (EDD), when dealing with customers who may present a higher ML/TF risk.</li> </ul> <p>The FCA has set out a more extensive, albeit non-exhaustive list.</p> | <p>Needs to comply with the wider rules and guidance under FSMA if applicable (in addition to the MLRs).</p>   |

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