



STATUTORY INSTRUMENTS.

S.I. No. 607 of 2024



EUROPEAN UNION (MARKETS IN CRYPTO-ASSETS) REGULATIONS
2024

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I, JACK CHAMBERS, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023¹ on markets in crypto-assets, and amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, hereby make the following regulations:

PART I
PRELIMINARY AND GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Markets in Crypto-Assets) Regulations 2024.

(2) These Regulations shall come into operation on 8 November 2024.

Interpretation

2. (1) In these Regulations –

“Act of 1942” means the Central Bank Act 1942 (No. 22 of 1942);

“Bank” means the Central Bank of Ireland;

“contravention” includes, in relation to any provision of the MiCA Regulation, a failure to comply with that provision, and also includes –

- (a) attempting to commit a contravention,
- (b) aiding, abetting, counselling or procuring a person to commit a contravention,
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention,
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and
- (e) conspiring with others to commit a contravention;

“Court” means the High Court;

“enactment” has the same meaning as it has in the Interpretation Act 2005 (No. 23 of 2005);

¹ OJ No. L 150, 9.6.2023, p.40

“MiCA Regulation” means Regulation (EU) No. 2023/1114 of the European Parliament and of the Council of 31 May 2023² on markets in crypto-assets, and amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937.

(2) A word or expression which is used in these Regulations and is also used in the MiCA Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the MiCA Regulation.

PART II

COMPETENT AUTHORITY

Designation of Bank as competent authority

3. The Bank is designated as the competent authority in the State for the purpose of Article 93(1) of the MiCA Regulation.

PART III

POWERS OF BANK

Powers of Bank

4. (1) The Bank shall have the following supervisory and investigative powers for the purpose of performing its duties under Titles II to VI of the MiCA Regulation:

- (a) to require any person to provide information and documents which the Bank considers could be relevant for the performance of its duties;
- (b) to suspend, or to require a crypto-asset service provider to suspend, the provision of crypto-asset services for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that any provision of the MiCA Regulation has been infringed;
- (c) to prohibit the provision of crypto-asset services where it finds that any provision of the MiCA Regulation has been infringed;
- (d) to disclose, or to require a crypto-asset service provider to disclose, all material information which might have an effect on the provision of the crypto-asset services concerned, in order to ensure the protection of the interests of clients, in particular retail holders, or the smooth operation of the market;
- (e) to make public the fact that a crypto-asset service provider fails to fulfil its obligations;

² OJ No. L 150, 9.6.2023, p.40

- (f) to suspend, or to require a crypto-asset service provider to suspend, the provision of crypto-asset services where the Bank considers that the crypto-asset service provider's situation is such that the provision of the crypto-asset service would be detrimental to the interests of clients, in particular retail holders;
- (g) to require the transfer of existing contracts to another crypto-asset service provider in cases where a crypto-asset service provider's authorisation is withdrawn in accordance with Article 64 of the MiCA Regulation, subject to the agreement of the clients and the crypto-asset service provider to which the contracts are to be transferred;
- (h) where there is a reason to assume that a person is providing crypto-asset services without authorisation, to order the immediate cessation of the activity without prior warning or imposition of a deadline;
- (i) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens to amend their crypto-asset white paper or further amend their modified crypto-asset white paper, where the Bank finds that the crypto-asset white paper or the modified crypto-asset white paper does not contain the information required by Article 6, 19 or 51 of the MiCA Regulation;
- (j) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to amend their marketing communications, where the Bank finds that the marketing communications do not comply with the requirements set out in Article 7, 29 or 53 of the MiCA Regulation;
- (k) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to include additional information in their crypto-asset white papers, where necessary for financial stability or the protection of the interests of the holders of crypto-assets, in particular retail holders;
- (l) to suspend an offer to the public or an admission to trading of crypto-assets for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that any provision of the MiCA Regulation has been infringed;
- (m) to prohibit an offer to the public or an admission to trading of crypto-assets where the Bank finds that any provision of the MiCA Regulation has been infringed or where there are reasonable grounds for suspecting that any such provision will be infringed;
- (n) to suspend, or require a crypto-asset service provider operating a trading platform for crypto-assets to suspend, trading of the crypto-assets for a maximum of 30 consecutive working days on

any single occasion where there are reasonable grounds for suspecting that any provision of the MiCA Regulation has been infringed;

- (o) to prohibit trading of crypto-assets on a trading platform for crypto-assets where the Bank finds that any provision of the MiCA Regulation has been infringed or where there are reasonable grounds for suspecting that any such provision will be infringed;
- (p) to suspend or prohibit marketing communications where there are reasonable grounds for suspecting that any provision of the MiCA Regulation has been infringed;
- (q) to require offerors, persons seeking admission to trading of crypto-assets, issuers of asset-referenced tokens or e-money tokens or relevant crypto-asset service providers to cease or suspend marketing communications for a maximum of 30 consecutive working days on any single occasion where there are reasonable grounds for suspecting that any provision of the MiCA Regulation has been infringed;
- (r) to make public the fact that an offeror, a person seeking admission to trading of a crypto-asset or an issuer of an asset-referenced token or e-money token, fails to fulfil its obligations under the MiCA Regulation;
- (s) to disclose, or to require the offeror, the person seeking admission to trading of a crypto-asset or the issuer of the asset-referenced token or e-money token, to disclose all material information which may have an effect on the assessment of the crypto-asset offered to the public or admitted to trading in order to ensure the protection of the interests of holders of crypto-assets, in particular retail holders, or the smooth operation of the market;
- (t) to suspend, or require the relevant crypto-asset service provider operating the trading platform for crypto-assets to suspend, the crypto-assets from trading where the Bank considers that the situation of the offeror, the person seeking admission to trading of a crypto-asset or the issuer of an asset-referenced token or an e-money token is such that trading would be detrimental to the interests of the holders of crypto-assets, in particular retail holders;
- (u) where there is a reason to assume that a person is issuing asset-referenced tokens or e-money tokens without authorisation or a person is offering or seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens without a crypto-asset white paper notified in accordance with Article 8 of the MiCA Regulation, to order the immediate cessation of the activity without prior warning or imposition of a deadline;
- (v) to take any type of measure to ensure that an offeror or a person seeking admission to trading of crypto-assets, an issuer of an asset-referenced token or an e-money token or a crypto-asset

service provider complies with the MiCA Regulation including to require the cessation of any practice or conduct that the Bank considers contrary to the MiCA Regulation;

- (w) to carry out on-site inspections or investigations at sites other than the private residences of natural persons, and for that purpose to enter premises in order to access documents and other data in any form;
- (x) to outsource verifications or investigations to auditors or experts;
- (y) to require the removal of a natural person from the management body of an issuer of an asset-referenced token or of a crypto-asset service provider;
- (z) to request any person to take steps to reduce the size of its position or exposure to crypto-assets;
- (aa) where no other effective means are available to bring about the cessation of the infringement of the MiCA Regulation and in order to avoid the risk of serious harm to the interests of clients or holders of crypto-assets to take all necessary measures, including by requesting a third party or a public authority to implement such measures, to –
 - (i) remove content or restrict access to an online interface or to order the explicit display of a warning to clients and holders of crypto-assets when they access an online interface,
 - (ii) order a hosting service provider to remove, disable or restrict access to an online interface, or
 - (iii) order domain registries or registrars to delete a fully qualified domain name and allow the Bank to register it;
- (ab) to require an issuer of an asset-referenced token or e-money token, in accordance with Article 23(4), 24(3) or 58(3) of the MiCA Regulation, to introduce a minimum denomination amount or to limit the amount issued.

(2) Supervisory and investigative powers exercised in relation to offerors, persons seeking admission to trading, issuers and crypto-asset service providers are without prejudice to powers granted to the Bank or other supervisory authorities regarding those entities, including powers granted to the Bank under the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011) and prudential supervisory powers granted to the European Central Bank under Regulation (EU) No. 1024/2013 of 15 October 2013³ conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

(3) The Bank shall have the following supervisory and investigatory powers, in addition to the powers referred to in paragraph (1), for the purpose of fulfilling its duties under Title VI of the MiCA Regulation:

³ OJ No. L 287, 29.10.2013, p. 63

- (a) to access any document and data in any form, and to receive or take a copy thereof;
- (b) to require or demand information from any person, including those who are successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals and, if necessary, to summon and question any such person with a view to obtain information;
- (c) to refer matters for criminal prosecution;
- (d) to take all necessary measures to ensure that the public is correctly informed, *inter alia*, by correcting false or misleading disclosed information, including by requiring an offeror, person seeking admission to trading or issuer or other person who has published or disseminated false or misleading information to publish a corrective statement.

(4) A person making information available to the Bank in accordance with the MiCA Regulation shall not be considered to infringe any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.

(5) The Bank shall not exercise the powers referred to in paragraphs (1) and (3) in a manner or for a purpose inconsistent with the Bank's obligations pursuant to the MiCA Regulation.

(6) The powers of the Bank referred to in paragraphs (1) and (3) are without prejudice to the powers of the Bank under any other provision of these Regulations, the MiCA Regulation or any other enactment.

(7) The Bank shall exercise its powers under this Regulation in accordance with the requirements of Part IIIC of the Act of 1942.

Governance arrangements

5. (1) Where the Bank has reason to believe that a person who has a qualifying holding, or voting rights attaching to shares, in a crypto-asset service provider is exercising an influence on the direction of the affairs of the crypto-asset service provider which is, or is likely to be, prejudicial to the prudent and sound management of the crypto-asset service provider, it shall, subject to paragraph (2), notify the person that the Bank so believes and direct that person, in writing, to take specified measures to bring such influence to an end within a period specified in the direction.

(2) Before issuing a direction to a person under paragraph (1), the Bank shall notify the person, in writing, of its intention to issue the direction and shall give the person an opportunity to make such representations on the matter as he or she may wish to make in such form and within such period as may be specified by the Bank in the notification.

(3) A direction issued under paragraph (1) is an appealable decision for the purposes of Part VIIA of the Act of 1942.

(4) Where the Bank is of the opinion that a direction under paragraph (1) has not been complied with by the person concerned, or has not been complied with within the period specified in the direction, the Bank may, without prejudice to any of its other functions, apply to the Court in a summary manner for any one or more of the following:

- (a) an injunction prohibiting the person concerned from issuing directions to directors or to any manager, secretary, officer or staff of, or persons engaged by, the crypto-asset service provider and prohibiting any director, manager, secretary, officer or any other person acting on behalf of the crypto-asset service provider from seeking directions from, or consulting, the person concerned, or from acting on such directions without the consent of the Bank;
- (b) an order suspending the exercise by the person concerned of any interest in or voting rights attaching to shares held by that person in the crypto-asset service provider;
- (c) an order requiring the person concerned to dispose of some or all of his or her shareholding, interests or rights in the crypto-asset service provider within a period specified by the Court;
- (d) such other order as the Court considers appropriate.

(5) Where the Court is satisfied, because of the nature or the circumstances of the case or otherwise in the interests of justice that it is desirable, the whole or any part of proceedings before it under this Regulation may be heard otherwise than in public.

PART IV

ENFORCEMENT AGAINST REGULATED FINANCIAL SERVICE PROVIDERS

Administrative penalties and other administrative measures

6. (1) Where the provisions of the Act of 1942 are invoked in relation to a contravention specified in paragraph (3), any of the administrative penalties and other administrative measures referred to in paragraph (4) may be imposed (or taken) by the Bank –

- (a) following an inquiry under section 33AO of the Act of 1942, or
- (b) in accordance with section 33AR or section 33AV of the Act of 1942.

(2) The power of the Bank to impose (or take) any of the administrative penalties and other administrative measures referred to in paragraph (4) is in addition to and not in substitution for its power to impose any of the sanctions specified in section 33AQ of the Act of 1942.

(3) Each of the following is a contravention referred to in paragraph (1):

- (a) an infringement of any of Articles 4 to 14 of the MiCA Regulation;
 - (b) an infringement of any of Articles 16, 17, 19, 22, 23, 25, 27 to 41, 46 and 47 of the MiCA Regulation;
 - (c) an infringement of any of Articles 48 to 51, 53, 54 and 55 of the MiCA Regulation;
 - (d) an infringement of any of Articles 59, 60, 64 and 65 to 83 of the MiCA Regulation;
 - (e) an infringement of any of Articles 88 to 92 of the MiCA Regulation;
 - (f) failure to cooperate or to comply with an investigation, an inspection or a request as referred to in Article 94(3) of the MiCA Regulation.
- (4) The administrative penalties and other administrative measures referred to in paragraph (1) are the following:
- (a) in relation to any infringement referred to in subparagraphs (a) to (d) of paragraph (3) –
 - (i) a public statement indicating the natural or legal person responsible and the nature of the infringement;
 - (ii) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;
 - (iii) maximum administrative fines of twice the amount of the profits gained or losses avoided because of the infringement where those can be determined, even if it exceeds the maximum amounts set out in clause (iv), as regards natural persons, or in subparagraph (b), as regards legal persons;
 - (iv) in the case of a natural person, maximum administrative fines of €1,000,000;
 - (b) in relation to infringements committed by legal persons, maximum administrative fines of:
 - (i) €5,000,000 for the infringements referred to in subparagraphs (a) to (d) of paragraph (3);
 - (ii) 3 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body for the infringements referred to in paragraph (3)(a);
 - (iii) 5 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body for the infringements referred to in paragraph (3)(d);

- (iv) 12.5 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body for the infringements referred to in subparagraphs (b) and (c) of paragraph (3);
- (c) in the event of an infringement referred to in subparagraph (d) of paragraph (3), the administrative penalties and other administrative measures as well as administrative fines referred to in subparagraphs (a) and (b), and a temporary ban preventing any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in a crypto-asset service provider;
- (d) in the event of the infringements referred to in paragraph (3)(e), the following administrative penalties and the following administrative measures:
 - (i) a public statement indicating the natural or legal person responsible and the nature of the infringement;
 - (ii) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;
 - (iii) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;
 - (iv) withdrawal or suspension of the authorisation of a crypto-asset service provider;
 - (v) a temporary ban of any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in crypto-asset service providers;
 - (vi) in the event of a repeated infringement of Article 89, 90, 91 or 92, a ban of 10 years for any member of the management body of a crypto-asset service provider, or any other natural person who is held responsible for the infringement, from exercising management functions in a crypto-asset service provider;
 - (vii) a temporary ban of any member of the management body of a crypto-asset service provider or any other natural person who is held responsible for the infringement, from dealing on own account;
 - (viii) maximum administrative fines of three times the amount of the profits gained or losses avoided because of the infringement, where those can be determined, even if it exceeds the maximum amounts set out in clause (ix) or (x), as applicable;

- (ix) in respect of a natural person, maximum administrative fines of €1,000,000 for infringements of Article 88 and €5,000,000 for infringements of Articles 89 to 92;
- (x) in respect of legal persons, maximum administrative fines of €2,500,000 for infringements of Article 88 and €15,000,000 for infringements of Articles 89 to 92, or 2 per cent for infringements of Article 88 and 15 per cent for infringements of Articles 89 to 92 of the total annual turnover of the legal person according to the last available accounts approved by the management body.

(5) For the purpose of paragraph (4), where the legal person referred to in clauses (ii) to (iv) of subparagraph (b) or clause (x) of subparagraph (d), as the case may be, of paragraph (4) is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013⁴, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable European Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

(6) For the purposes of a contravention specified in paragraph (3), any reference in the Act of 1942 to the sanctions set out in section 33AQ of that Act is to be read as including a reference to the administrative penalties and other administrative measures referred to in paragraph (4).

(7) Where an administrative penalty or other administrative measure referred to in paragraph (4) is imposed (or taken) in respect of a contravention specified in paragraph (3), the type and level of any such penalty or measure, or penalties or measures, to be imposed (or taken) in respect of such a contravention shall be determined in accordance with Article 112 of the MiCA Regulation.

(8) Where an administrative penalty or other administrative measure referred to in paragraph (4) is imposed (or taken) in respect of a contravention specified in paragraph (3), the provisions of Article 114 of the MiCA Regulation shall apply in respect of the publication by the Bank of a decision to impose (or take) any such penalty or measure, or penalties or measures, and section 33BC of the Act of 1942 shall not apply.

PART V

ENFORCEMENT AGAINST NON-REGULATED FINANCIAL SERVICE PROVIDERS

Interpretation

7. In this part –

⁴ OJ L 182, 29.6.2013, p. 19

“adverse assessment” means an assessment in which the assessor has decided that the assessee is committing or has committed a prescribed contravention;

“assessee” means a person the subject of an assessment referred to in Regulation 8(1);

“assessment” means an assessment referred to in Regulation 8;

“assessor” means an assessor appointed by the Bank under Regulation 8;

“contravene” includes a failure to comply, and also includes –

- (a) attempting to contravene,
- (b) aiding, abetting, counselling or procuring a person to commit a contravention,
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention,
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and
- (e) conspiring with others to commit a contravention;

“non-regulated financial service provider” means a person who is not a regulated financial service provider (within the meaning of the Act of 1942) but who otherwise is a person subject to requirements imposed by the MiCA Regulation;

“prescribed contravention” means a contravention of Title VI of the MiCA Regulation, or a failure to cooperate or to comply with an investigation, with an inspection or with a request as referred to in Article 94(3) of the MiCA Regulation or Regulation 4, by a non-regulated financial service provider;

“specified sanction”, in relation to an adverse assessment, means a sanction or sanctions referred to in Regulation 17 that may be imposed on the assessee.

Appointment of assessor

8. (1) Where the Bank has reason to suspect that a prescribed contravention is being committed or has been committed by a person who is a non-regulated financial service provider (in this Part referred to as the “assessee”), the Bank may appoint an assessor (or, if the Bank thinks fit to do so, more than one assessor) to conduct an assessment as to –

- (a) whether or not the assessee is committing or has committed the contravention, and
- (b) where the assessor finds that the assessee is committing or has committed the contravention, the specified sanction or sanctions, if any, which the assessor considers is or are appropriate to be imposed on the assessee in respect of the contravention.

(2) The Bank may appoint an assessor who is not an officer, employee or official of the Bank and any such assessor so appointed is an agent of the Bank for the purpose of performing the functions of an assessor under this Part.

(3) The Bank shall provide the assessor with such administrative services (including technical and legal advice) as the Bank considers necessary to enable the assessor to perform the assessor's functions.

(4) The assessor shall, as soon as is practicable after his or her appointment as an assessor, give notice of the appointment to the assessee.

(5) The notice under paragraph (4) shall contain –

- (a) a statement that the assessor is appointed by the Bank under this Regulation,
- (b) a statement in summary form of the grounds for conducting the assessment,
- (c) a statement that, within a reasonable time specified by the assessor in the notice, the assessee may –
 - (i) make submissions in writing to the assessor, and
 - (ii) request the assessor to be permitted to make oral submissions about the matters to which the notice relates,

and

- (d) a statement that the assessor shall conduct the assessment even if no submissions referred to in subparagraph (c) are made.

(6) The assessor shall –

- (a) consider any submissions referred to in paragraph (5)(c) made by the assessee, and
- (b) conduct such investigations relating to the assessment as the assessor considers appropriate before issuing the assessment.

(7) The assessor shall issue the assessment to the Bank when the assessment is made.

(8) Where the assessor decides that a prescribed contravention is being committed or has been committed, the assessor shall ensure that the assessment includes –

- (a) a statement of the grounds upon which the assessor made the assessment that the assessee is committing or has committed the contravention,
- (b) a statement in summary form of the evidence upon which the assessment is based, and
- (c) a statement of the sanction or sanctions, if any, which the assessor considers is or are appropriate to be imposed on the assessee in respect of the contravention.

(9) The appointment of an assessor may be for a specified or unspecified period.

(10) Subject to Regulations 13 and 14(2), the assessment referred to in paragraph (7) shall constitute the decision of the Bank, and references in this Part to an adverse assessment shall be construed accordingly.

Revocation of appointment of assessor

9. (1) Where the Bank is satisfied that an assessor has contravened paragraph (2) or is incapacitated, the Bank may revoke the appointment of the assessor at any time.

(2) An assessor (including a person proposed for appointment as an assessor) shall –

- (a) disclose to the Bank any material interest that the assessor may have in any matter that may arise during the assessment,
- (b) disclose to the Bank any actual or potential conflict of interest that the assessor may have in conducting an assessment,
- (c) not use any information obtained during an assessment for any purpose other than the performance of the assessor's functions under this Part,
- (d) not engage in misconduct during the assessment,
- (e) perform the assessor's functions in accordance with the procedures and requirements set out in this Part, and
- (f) issue an assessment that is not contrary to law.

Power to require witnesses to appear and to give evidence

10. (1) The assessor may, by notice given in or outside the State to a person, require the person to do one or more of the following:

- (a) appear before the assessor to give evidence (including giving evidence on oath);
- (b) produce documents specified in the notice which are in the person's custody or control;
- (c) for the purposes of subparagraph (a) or (b), attend before the assessor from day to day, unless excused from attendance or released from further attendance by the assessor.

(2) The assessor may administer oaths for the purposes of the evidence referred to in paragraph (1)(a).

(3) A witness at a hearing before the assessor has the same liabilities, privileges and immunities as a witness before the Court.

(4) Where a person (in this paragraph referred to as "person concerned") –

- (a) fails to comply with a notice under paragraph (1),
- (b) threatens or insults the assessor or any witness or person required to attend before the assessor,
- (c) interrupts the proceedings of, or does not behave in an appropriate manner before, the assessor,
- (d) obstructs or attempts to obstruct the assessor,

- (e) discloses, or authorises the disclosure of, evidence given before the assessor or any of the contents of a document produced to the assessor that the assessor has instructed not to be disclosed, or
 - (f) does anything else that, if the assessor were a court of law having power to commit for contempt, would be contempt for that court, then –
 - (i) the assessor may apply to the Court for an order requiring the person concerned to do one or both of the following:
 - (I) comply with the notice under paragraph (1);
 - (II) discontinue or not repeat the behaviour falling within any of the provisions of subparagraphs (b) to (f), or behaviour of any similar kind,
- and
- (ii) the Court, if satisfied that there is no reasonable excuse for the failure to comply with the notice under paragraph (1) or for the behaviour concerned, as the case may be, may grant the order and such other orders as it considers appropriate to ensure that the person concerned cooperates with the assessor.

Referral to Court on question of law

11. (1) The Bank or the assessor may (including at the request of the assessee) refer a question of law arising in an assessment to the Court for determination by the Court.

- (2) Where a question of law is referred under paragraph (1) –
 - (a) the assessor shall send to the Court all documents before the assessor that are relevant to the matter in question, and
 - (b) at the end of the proceedings in the Court in relation to the reference, the Court shall cause the documents to be returned to the assessor.

Assessee to be issued copy of any adverse assessment, etc.

12. (1) Where the assessment of an assessor is that the assessee is committing or has committed a prescribed contravention, the Bank shall –

- (a) issue the assessee with a copy of the adverse assessment or, as the Bank thinks fit, so much of the adverse assessment as constitutes the statement referred to in Regulation 8(8), and
- (b) advise the assessee that –
 - (i) the assessee may appeal against the adverse assessment to the Court under Regulation 13, and

- (ii) the Bank may apply to the Court under Regulation 16 for an order confirming the adverse assessment (including the specified sanctions).

(2) Where the assessment of an assessor is that the assessee is neither committing nor has committed a prescribed contravention, the Bank shall issue the assessee with a statement to that effect.

Right of appeal against adverse assessment (including specified sanctions)

13. (1) The assessee may appeal against an adverse assessment (including the specified sanctions) to the Court not later than 28 days after the Bank has complied with Regulation 12(1) in relation to the assessee, or within such further period as the Court allows.

(2) Where the Court is satisfied, because of the nature or the circumstances of the case or otherwise in the interests of justice, that it is desirable that the whole or any part of proceedings relating to an appeal under paragraph (1) should not be heard in public then, where the Court so directs, the proceedings may be heard otherwise than in public.

(3) The Court may, pending the hearing and determination of an appeal under paragraph (1), make such interim or interlocutory orders as the Court considers necessary in the circumstances.

(4) The Court shall determine an appeal under paragraph (1) by making –

- (a) subject to paragraph (6), an order confirming, varying or setting aside the adverse assessment (including the specified sanctions), whether in whole or in part, or
- (b) an order remitting the case to be decided again by the Bank in accordance with the directions of the Court.

(5) The determination of the Court on the hearing of an appeal under paragraph (1) shall be final, except that a party to the appeal may apply to the Court of Appeal to review the determination on a question of law.

(6) No variation of an adverse assessment under paragraph (4)(a) may provide for the imposition of a sanction on the assessee which is not a sanction referred to in Regulation 17.

Power to correct assessments

14. (1) Where the assessor or the Bank is satisfied that there is an obvious error in the text of an assessment, the assessor or the Bank, as the case may be, may alter the text of the assessment to remove the error.

(2) Where the text of an assessment is altered under paragraph (1), the text as so altered shall be taken to be the decision of the Bank under Regulation 8(10).

(3) In paragraph (1), “obvious error”, in relation to the text of an assessment, includes –

- (a) a clerical or typographical error,

- (b) an error arising from an accidental slip or omission, or
- (c) a defect of form.

When specified sanctions take effect

15. (1) Where –

- (a) no appeal under Regulation 13 against the adverse assessment (including the specified sanctions) is lodged with the Court within the period for lodging an appeal, or
- (b) an appeal under Regulation 13 against the adverse assessment (including the specified sanctions) which has been lodged with the Court within the period for lodging the appeal is withdrawn or abandoned,

then, the specified sanctions pursuant to Regulation 8(8)(c), as confirmed or varied in the order, if any, obtained under Regulation 16(2)(a), shall take effect on the date of that order or such other date as the Court may specify in that order.

(2) Where an appeal under Regulation 13 against the adverse assessment is lodged with the Court within the period allowed for lodging the appeal, then, the specified sanctions pursuant to Regulation 8(8)(c), as confirmed or varied in the order, if any, obtained under Regulation 13(4)(a), shall take effect on the date of that order or such other date as the Court may specify in that order.

Enforcement of adverse assessment (including specified sanctions)

16. (1) Where –

- (a) no appeal under Regulation 13 against an adverse assessment (including the specified sanctions) is lodged with the Court within the period for lodging an appeal, or
- (b) an appeal under Regulation 13 against an adverse assessment (including the specified sanctions) which has been lodged with the Court within the period for lodging the appeal is withdrawn or abandoned,

then, the Bank may apply to the Court for an order confirming the adverse assessment (including the specified sanctions).

(2) The Court shall determine an application under paragraph (1)

by making –

- (a) subject to paragraph (7), an order confirming, varying or setting aside the adverse assessment (including the specified sanctions) whether in whole or in part, or
- (b) an order remitting the case to be decided again by the Bank in accordance with the directions of the Court.

(3) The Court shall not hear an application under paragraph (1) unless –

- (a) the assessee appears at the hearing as respondent to the application, or
- (b) if the assessee does not so appear, the Court is satisfied that a copy of the application under paragraph (1) has been served on the assessee.

(4) Where the Court is satisfied that it is desirable that the whole or any part of proceedings relating to an application under paragraph (1) be heard otherwise than in public because of the nature or the circumstances of the case or having regard to the interests of justice, the Court may make an order that the proceedings shall, in whole or in part, be heard otherwise than in public.

(5) The Court may, on an application under paragraph (1), make such interim or interlocutory orders as the Court considers necessary in the circumstances.

(6) The determination of the Court on the hearing of an application under paragraph (1) shall be final, except that the Bank or the respondent, if any, may apply to the Court of Appeal to review the determination on a question of law.

(7) No variation of an adverse assessment under paragraph (2)(a) may provide for the imposition of a sanction on the assessee that is not a sanction referred to in Regulation 17.

Sanctions that may be imposed by Bank

17. (1) In the case of an adverse assessment, the Bank may impose on the assessee concerned the following sanctions:

- (a) a public statement indicating the natural or legal person responsible and the nature of the infringement;
- (b) an order requiring the natural or legal person responsible to cease the conduct constituting the infringement and to desist from a repetition of that conduct;
- (c) the disgorgement of the profits gained or losses avoided due to the infringement insofar as they can be determined;
- (d) a temporary ban of any natural person who is held responsible for the infringement, from exercising management functions in crypto-asset service providers;
- (e) in the event of a repeated infringement of Article 89, 90, 91 or 92 of the MiCA Regulation, a ban of 10 years for any natural person who is held responsible for the infringement, from exercising management functions in a crypto-asset service provider;
- (f) a temporary ban of any natural person who is held responsible for the infringement, from dealing on own account;
- (g) maximum administrative fines of three times the amount of the profits gained or losses avoided because of the infringement, where those can be determined, even if it exceeds the maximum amounts set out in paragraph (h) or (i), as applicable;

- (h) in respect of a natural person, maximum administrative fines of €1,000,000 for infringements of Article 88 of the MiCA Regulation and €5,000,000 for infringements of Articles 89 to 92 of the MiCA Regulation;
- (i) in respect of legal persons, maximum administrative fines of €2,500,000 for infringements of Article 88 of the MiCA Regulation and €15,000,000 for infringements of Articles 89 to 92 of the MiCA Regulation, or 2 per cent for infringements of Article 88 of the MiCA Regulation and 15 per cent for infringements of Articles 89 to 92 of the MiCA Regulation of the total annual turnover of the legal person according to the last available accounts approved by the management body.

(2) For the purpose of paragraph (1)(i), where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013⁵, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable European Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

(3) The Bank may impose, in relation to infringements committed by legal persons, maximum administrative fines of:

- (a) €5,000,000 for the infringements referred to in paragraph 1, first subparagraph, points (a) to (d) of Article 111 of the MiCA Regulation;
- (b) 3 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, point (a) of Article 111 of the MiCA Regulation;
- (c) 5 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, point (d) of Article 111 of the MiCA Regulation;
- (d) 12.5 per cent of the total annual turnover of the legal person according to the last available financial statements approved by the management body, for the infringements referred to in paragraph 1, first subparagraph, points (b) and (c) of Article 111 of the MiCA Regulation.

(4) For the purpose of paragraph (3)(a), where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU of

⁵ OJ L 182, 29.6.2013, p. 19

the European Parliament and of the Council of 26 June 2013⁶, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable European Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

Power of Bank to resolve suspected contraventions, etc.

18. (1) Where the Bank has reason to suspect, based on reasonable grounds, that an assessee is committing or has committed a prescribed contravention, it may enter into an agreement in writing with the assessee to resolve the matter (including at any time before an assessment, if any, has been issued in respect of the assessee).

(2) An agreement entered into under paragraph (1) –

- (a) is binding on the Bank and the assessee, and
- (b) may include terms under which the assessee accepts the imposition of sanctions.

(3) An agreement entered into under paragraph (1) may be enforced by the Bank or the assessee in a court of competent jurisdiction.

PART VI APPEALS

Right of appeal

19. (1) A decision of the Bank under the MiCA Regulation or these Regulations shall be properly reasoned.

(2) A decision imposing a measure, condition, requirement or sanction on a person, or to give a direction to a person, or to refuse to grant an application for authorisation to a person, under these Regulations or the MiCA Regulation is an appealable decision for the purpose of Part VIIA of the Act of 1942.

(3) A failure to make a decision in respect of an application for an authorisation under the MiCA Regulation within 6 months after the submission of the application in a case where the application contains all the information required under the MiCA Regulation is an appealable decision for the purpose of Part VIIA of the Act of 1942.

⁶ OJ L 182, 29.6.2013, p. 19

PART VII TRANSITIONAL MEASURES

Transitional measures

20. Crypto-asset service providers that provided their services in accordance with applicable law before 30 December 2024, may continue to do so until 30 December 2025 or until they are granted or refused an authorisation pursuant to Article 63 of the MiCA Regulation, whichever is sooner.

PART VIII CONSEQUENTIAL AMENDMENTS

Amendment of Act of 1942

21. The Act of 1942 is amended –
- (a) in section 2(2A), by the substitution of the following paragraphs for paragraphs (bf), (bg) (inserted by Regulation 13(a)(ii) of the European Union (Recovery and Resolution of Central Counterparties) Regulations 2022 (S.I. No. 547 of 2022)) and (bg) (inserted by Regulation 10(a)(ii) of the European Union (Pan – European Personal Pension Product) Regulations 2022 (S.I. No. 435 of 2022):
 - “(bf) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020⁷;
 - (bg) Regulation (EU) No 2019/1238 of the European Parliament and Council of 20 June 2019⁸;
 - (bh) Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020⁹;
 - (bi) Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023¹⁰.”,
 - (b) in section 33AK(10), in the definition of “supervisory EU legal acts”, by the insertion of the following paragraph after paragraph (an):
 - “(ao) Regulation (EU) No. 2023/1114 of the European Parliament and of the Council of 31 May 2023¹¹.”,
 - (c) in section 33AN(1) –
 - (i) in the definition of “designated enactment”, by the insertion of “or Regulation (EU) 2023/1114 of the European

⁷ OJ No. L 347, 20.10.2020, p. 1

⁸ OJ No. L 198, 25.7.2019, p.1

⁹ OJ No. L 22, 22.1.2021, p. 1

¹⁰ OJ No. L 150, 9.6.2023, p.40

¹¹ OJ No. L 150, 9.6.2023, p.40

Parliament and of the Council of 31 May 2023 but (in relation to the last-mentioned Regulation) wherever and only in so far as it imposes a requirement on a person who is not a regulated financial service provider” after “or the Securitisation Regulation but (in relation to the Securitisation Regulation) wherever and only is so far as it imposes a requirement on a person who is not a regulated financial service provider,”, and

- (ii) in the definition of “designated statutory instrument”, by the insertion of “or the European Union (Markets in Crypto-Assets) Regulations 2024 (S.I. No. 607 of 2024) but (in relation to the last-mentioned Regulations) wherever and only in so far as they impose a requirement on a person who is not a regulated financial service provider” after “or the European Union (Anti-Money Laundering: Central Mechanism for Information on Safe-Deposit Boxes and Bank and Payment Accounts) Regulations 2022 (S.I. No. 46 of 2022);”,

- (d) in section 33BC, by the insertion of the following subsection after subsection (20):

“(21) This section does not apply where Article 114 of Regulation (EU) 2023/1114 of the European Parliament and of the Council of May 2023¹² applies.”,

and

- (e) in Part 2 of Schedule 2, by the insertion of the following item:

“

84	S.I. No. 607 of 2024	European Union (Markets in Crypto-Assets) Regulations 2024	The whole instrument
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”.

Amendment of European Union (Capital Requirements) Regulations 2014

22. The Schedule to the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) is amended –

- (a) in paragraph 15, by the insertion of “including electronic-money tokens as defined in Article 3(1), point (7), of Regulation (EU) No. 2023/1114 of the European Parliament and of the Council of 31 May 2023¹³” after “electronic money”, and
- (b) by the insertion of the following paragraphs after paragraph 15:

¹² OJ No. L 150, 9.6.2023, p.40

¹³ OJ No. L 150, 9.6.2023, p.40

“(16) Issuing of asset-referenced tokens as defined in Article 3(1), point (6), of Regulation (EU) No. 2023/1114 of the European Parliament and of the Council of 31 May 2023¹⁴.

(17) Crypto-asset services as defined in Article 3(1), point (16), of Regulation (EU) No. 2023/1114 of the European Parliament and of the Council of 31 May 2023¹⁵.”.

Amendment of Protected Disclosures Act 2014

23. The Protected Disclosures Act 2014 (No. 14 of 2014) is amended in Part II of Schedule 6 by the insertion of the following point in Point A, sub-point 1:

“(xii) Regulation (EU)2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ No. L 150, 9.6.2023, p.40).”.



GIVEN under my Official Seal,
7 November, 2024.

JACK CHAMBERS,
Minister for Finance.

¹⁴ OJ No. L 150, 9.6.2023, p.40

¹⁵ OJ No. L 150, 9.6.2023, p.40

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