



DARTE SERIES

Lisbon

Initiated by Dr. Nina-Luisa Siedler and Mariana de la Roche W., the Digital Asset Round Table Expert (DARTE) Series aims to enhance legal clarity within the evolving regulatory framework of the EU Markets in Crypto-Assets Regulation (MiCAR). Over time, the series has expanded to cover not only MiCAR but also other related regulatory frameworks and additional regions.

The Lisbon MiCAR Expert Roundtable was hosted at Biblioteca Palácio Galveias on February 28th, 2025, bringing together regulators, policymakers, and industry experts to engage in high-level discussions on reporting obligations, passporting processes for countries lacking their

designated NCA, and third country (non-EU) token issuers under MiCAR.

We extend our sincere gratitude to the European Commission, Crypto Risk Metrics, and FIO Legal for their invaluable support in making this roundtable possible. Special thanks to Tim Zölitz, Luiza Rey, and Anthony Day for their contributions to the discussions.

This report consolidates insights from these discussions. It is important to note that the perspectives and conclusions presented herein represent the collective understanding of the topics discussed and do not reflect the individual positions of any participant or the respective rapporteurs.



1. Reporting Obligations According to Art. 66 (5) MiCAR

The first topic of the Lisbon roundtable, presented by Tim Zölitz, CEO of Crypto Risk Metrics, focused on the Reporting Obligations according to Article 66 (5) MiCAR: From December 30, 2024, CASPs and issuers of crypto-asset white papers are required to disclose information on energy consumption and greenhouse gas (GHG) emissions related to the crypto-assets they service.

These disclosure obligations present several practical implementation challenges, particularly concerning how this information is presented. According to guidance provided by ESMA, CASPs must prominently display on their websites information on the principal adverse environmental impacts associated with the crypto-assets they service. Additionally, MiCAR mandates that this information must be "fair, clear, and not misleading."

1. Placement of Disclosures:

One significant ambiguity discussed is the interpretation of the term "prominent place." The absence of a precise definition creates uncertainty, especially for CASPs whose primary interaction with customers occurs through mobile applications rather than websites.

Participants of the roundtable proposed and discussed some solutions to address these practical challenges. It has been noted that a uniform solution for all CASPs is neither apparent from the guidelines nor feasible due to the different setup of CASPs.

The roundtable agreed that the term "prominent place" should be interpreted flexibly, as long as the disclosures remain easily accessible and clearly visible to customers. Suitable approaches include:

- A clearly labeled link within the website's main navigation or footer.
- Placement on crypto-asset-specific webpages.
- Extending this principle to apps and similar communication means, ensuring compliance aligns with customer interactions.

While MiCAR requires the placement "on the website" only, the participants agreed that where the primary point of contact with the customer is an app and not a website, the disclosure requirements should be applied for the app as well. The legislator's main intention was to provide information to the CASP's customers and the reference to the website only may not be taken as limitation.

2. Downloadable format:

Further complicating the matter, the regulation explicitly requires CASPs to provide sustainability data in a downloadable format on their websites. However, the requirement to disclose "material changes" references only the presentation on websites, without clarifying if these updates must also be provided as downloadable files. Having discussed the issue, the roundtable recommended adopting downloadable files for both original disclosures and subsequent updates, simplifying compliance while maintaining transparency.

3. Use of multiple DTIs:

Another critical issue arises from ESMA's requirement to identify crypto-assets using Digital Token Identifiers (DTIs). The current structure necessitates individual DTIs for the same crypto-asset issued across multiple blockchains, resulting in numerous separate disclosures for economically identical assets. For example, SushiSwap has more than ten distinct DTIs across various blockchain networks, all requiring separate disclosures which complicates the reporting process and

negatively impacts transparency for consumers.

The experts discussed the issue and agreed that in order to avoid confusion by issuing multiple, diverging reports for a token issued on a number of blockchains such tokens should be grouped. Creating a group of tokens in such cases and providing for a single report including the data for all tokens issued across various chains support the legislative intention for transparency, specifically for the key indicator "energy consumption".

In this regard, participants supported adopting the "Functionally Fungible Group" (FFG) approach developed by the Digital Token Identifier Foundation (DTIF) to streamline disclosures. This method aggregates multiple DTIs representing economically equivalent crypto-assets into a single identifier, significantly simplifying reporting obligations.

This solution not only reduces operational complexities for CASPs but also enhances consumer transparency by providing a unified, comprehensible disclosure for each economic crypto-asset group.

Expert opinion on the reporting obligations according to Art. 66 (5) MiCAR

The experts agreed on the following current best practices:

- **"Prominent Placement" Requirements:** Best practice regarding the term "prominent place" is to choose an easily accessible and clearly visible place on both the CASP's websites and its mobile application, if the latter is a main tool to interact with customers.
- **Downloadable file in case of "material changes":** The industry recommends to CASPs to provide downloadable files for initial sustainability disclosures and subsequent material updates, enhancing transparency and simplifying compliance processes.
- **Adopt Token Grouping (FFG) Methodology:** Regulators and industry participants should endorse the use of Functionally Fungible Groups (FFGs) or similar methodologies as a standard for aggregating economically identical crypto-assets which are issued on multiple chains, significantly reducing reporting complexity, enhancing transparency, and improving consumer understanding.

2. Passporting Process According to Art. 65 MiCAR.

The second topic of the Lisbon roundtable, presented by Luiza Rey, founder of FIO Legal, focused on the Passporting Process according to Article 65 MiCAR.

Under Article 65 of MiCAR, CASPs authorized in one EU Member State can operate across multiple Member States by notifying their home national competent

authority ("NCA"), which then informs the host NCAs. However, procedural challenges arise in situations where Member States have not yet designated their NCA responsible for MiCAR authorizations.

The expert group discussed specifically Portugal, where the responsibilities are expected to be assigned to either CMVM or Banco de Portugal. Banco de Portugal (BdP) has publicly indicated it currently

cannot process MiCAR authorization requests due to Portugal's delay in appointing a designated NCA. This absence creates uncertainty regarding which authority should receive notifications when a foreign CASP intends to passport into Portugal, potentially obstructing the passporting process and complicating cross-border service provision under MiCAR.

In response to such regulatory gaps, participants discussed proactive strategies for CASPs:

1. CASPs operating or intending to operate in jurisdictions without a clearly designated NCA should proactively include all potentially relevant authorities in their notification (request), demonstrating due diligence and a clear intent to comply. For instance, in Portugal, CASPs should notify both the authority currently responsible for AML supervision (Banco de Portugal) and the expected NCA under MiCAR (potentially CMVM, though not yet confirmed).
2. CASPs should align their compliance documentation with

MiCAR standards rather than outdated national regulations, ensuring readiness when an NCA is formally designated.

3. Notifications should also be submitted to overarching EU bodies such as ESMA and EBA to strengthen regulatory oversight and ensure broader compliance coverage.
4. Maintaining comprehensive records of all notifications sent is recommended as best practice, minimizing risks of potential legal disputes related to compliance.

The roundtable highlighted the broader issue of "notification gaps" or a "broken chain" of communication that arises when home NCAs lack clear points of contact within host jurisdictions.

In addition to Portugal, other jurisdictions including Poland, Norway, and Romania were mentioned as experiencing similar uncertainties.

Expert opinion on Passporting According to Art. 65 MiCAR

The experts agreed on the following current best practices:

- **Adopt a Proactive Notification Approach:** CASPs should proactively (request to) notify all potentially relevant national authorities and EU regulatory bodies in jurisdictions lacking clearly designated NCAs to ensure operational continuity and compliance transparency.
- **Encourage Regulatory Clarifications by ESMA and EBA:** Industry participants should request and advocate for additional guidance and clarity from ESMA and EBA regarding passporting notification processes, particularly in scenarios where NCA designation remains incomplete or unclear.
- **Highlight the Need for Designated NCAs in All Member States:** CASPs and the wider crypto community should raise their voices to call member states to prioritize the final designation of their respective NCAs without any further delay to ensure a seamless passporting notification process.

3. Learnings from non-EU based L1s and White Papers

The third and final topic of the Lisbon roundtable, presented by Anthony Day from Midnight, focused on the learnings derived from third country (non-EU) Layer-1 blockchain projects looking into issuing a crypto-asset white paper, specifically in the context of token launches and airdrops under MiCAR.

One of the main issues highlighted by the participants is the choice of EU jurisdiction

for notifying a MiCAR white papers. A MiCAR white paper needs to be notified to the competent authority in the home member state of the issuer. Art. 3 (33) (c) MiCAR states, that the home member state for non-EU players is "either the Member State where the crypto-assets are intended to be offered to the public for the first time or, at the choice of the offeror or person seeking admission to trading, the Member State where the first application for admission to trading of those crypto-assets is made" Therefore, non-EU issuers may decide which EU jurisdiction they opt in.

The experts discussed a number of questions around the selection of a Member State for projects that intend to access the EU market. They identified the following key considerations:

- Member States such as Germany, the Netherlands, and France were noted as experienced and knowledgeable counterparts due to their historical engagement with crypto-related regulations. These countries may be chosen for reputational reasons but are feared for overcomplicated and lengthy processes.
- Certain jurisdictions may adopt a less stringent or more streamlined approach, potentially reducing the administrative burden for blockchain projects.
- In general, Western European Member States were perceived to

offer greater reputational advantages compared to Eastern European counterparts.

- The presence of project staff or advisors in a Member States may facilitate smoother interactions with the local NCA.
- It does not seem advisable to choose one of the jurisdictions which did not yet assign their national competent authority.

To further simplify and streamline the submission process, the roundtable proposed establishing a unified, EU-wide digital submission portal. Such a portal would enable projects to submit whitepapers and select their preferred NCA, with subsequent automatic distribution of documentation to all other NCAs, if the whole EU is targeted. This would enhance transparency, improve efficiency, and promote consistency across regulatory engagements.

Expert opinion on L1s and Airdrop Whitepapers:

The experts recommended:

- **Develop Cross-Jurisdictional Reviews:** The industry should develop and maintain (i) an EU-wide overview and comparison of the pros and cons for choosing an EU jurisdiction as home member state by third country (non-EU) issuers, and (ii) guidelines detailing the evidence required for submissions to the relevant NCA, including handling "material changes" during the mandated 20-day review period following the initial notification to such NCA.
- **Establish a Centralized Submission Platform:** The round table proposes to create a unified EU-wide digital submission platform that allows projects to submit white papers to the relevant NCA, with automatic notification to and coordinated feedback from other relevant NCAs.

We thank all participants of the Lisbon roundtable for contributing to the discussion:

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