

Getting ready for MiCA: a Checklist

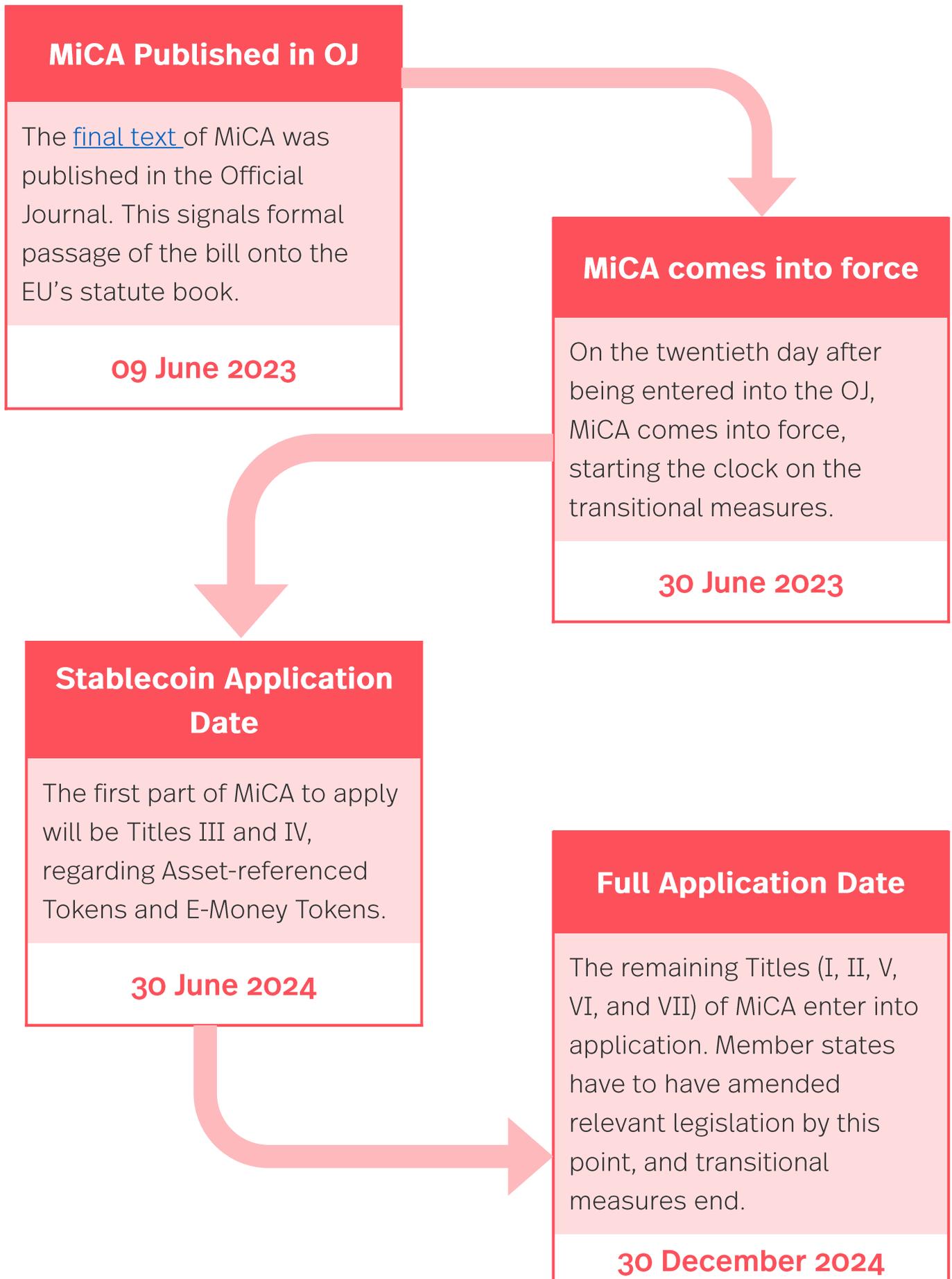
29 June 2023



On 30 June 2023, the **Markets in Crypto Assets Regulation** (MiCA) comes into force.

This starts the clock on cryptoasset firms becoming licensed to provide their services in the EEA.

This document is the first of our **MiCAdeMy** publications, and gives you a handy checklist of things you should be thinking about over the next 18 months to ensure that you are ready for MiCA, and avoid any nasty surprises down the line.





Before
December 2023

Before June
2024

Before
December 2024

Compliance with MiCA won't be achieved by waiting until December 2024 and then starting work. There are significant activities that we recommend considering at least one year in advance of this, to give you time to prepare, and time to get relevant registrations (if necessary).



Map your Activities: You need to review the activities you carry out and confirm if and how they are regulated under MiCA.



Map your Customers: Who are your customers (retail? Professional?), where are they based, and what activities do you carry out for the different client types?



Map your Geography: Where are you carrying out your services from? Are you already based in the EEA or carrying out services on a cross border basis? Do you have any EEA entities or employees? What activities are they carrying out?



Regulatory Engagement: Have you already had engagement with regulators in EEA jurisdictions? If not, are you going to?



AML Registrations: If you want to benefit from grandfathering you will need at least one AML registration by December 2024. Which jurisdiction? What are the pros and cons of each?



Grandfathering: If you're already registered in an EEA jurisdiction by December 2024 then you should be able to grandfather this to a MiCA authorisation. Think about moving customers to that entity in good time.



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Think about Stablecoins: The MiCA rules applicable to Electronic Money Tokens and Asset-Referenced Tokens come in earlier than the other areas. You will need to think about how this will impact you.



Level 2 Legislation and Goldplating: Review the level 2 legislation and see how this will impact you. Are any jurisdictions goldplating their legislation?



Consider any UK activities: Think about your cross-border activities from the EEA into the UK. Is this compliant with new UK legislation?



Token Categorisation: What assets are you considering offering? You need to categorise those that are Utility Tokens, Asset-referenced Tokens, Electronic Money Tokens, Cryptoassets or securities.



Whitepaper Requirements: What assets are you able to list? Do you have whitepapers for them? Do you have whitepaper obligations under MiCA?



Fast-Track Procedures: Review the process for converting an AML Registration into a MiCA authorisation. Different regulators will apply this differently.



Custody and Liquidity: Where are you sourcing your liquidity? Are you custodying assets? Where will this be? Confirm if any arrangements with third country entities are possible.



Pick your jurisdiction: Based on all the above, it's time to pick your MiCA jurisdiction. You'll also need to consider Tax, crypto friendliness, timing, workforce issues and substance requirements, and if regulators are shortening grandfathering.



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Your MiCA Application: The time has come to start preparing your MiCA application – starting this as early as possible, even in advance of the application processes opening, will give you the best chance of getting your licence.



Prudential Requirements: What are the prudential requirements for your authorisation? Ensure you have sufficient capital.



Policies and Procedures: Review all policies and procedures to ensure they are up to date and in place ahead of your MiCA application.



Group Structure: Consider your group structure, whether you need to be incorporating new subsidiaries or branches.



Compliance Requirements: Review the relevant compliance requirements and ensure that these are met ahead of MiCA entering into application in full. These should be built and operational by 30 December 2024, when MiCA comes into force.



Compliance during grandfathering: Work out how you are going to operate under your AML registration, during grandfathering – you only get passporting once you have got your MiCA licence in hand. Can you continue to use reverse enquiry in other member states? Have other member states shortened their own grandfathering periods?

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