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Digital Assets  
and Blockchain

# Digital Asset Regulation in the EU, UK, and the U.S.

May 2025

	EU	UK	US
Status of regulatory framework	<p>The EU's Markets in Cryptoasset Regulation (MiCA) is a <b>bespoke regime</b> covering the cryptoasset markets. MiCA became fully applicable on 30 December 2024 (with the stablecoin provisions becoming applicable six months earlier on 30 June 2024).</p> <p>MiCA prescribes a single set of rules <i>across the EU</i>. Prior to MiCA, existing national implementations of the 5<sup>th</sup> Anti-Money Laundering Directive (5MLD) covered—and continues to cover—certain virtual asset service providers (VASPs) (primarily, exchanges and custodians). Individual EU member states are currently implementing the new regime, with all national transition periods for those VASPs operating under existing rules coming to an end <b>by July 2026</b>.</p>	<p>Currently, cryptoasset exchanges and custodians are regulated for anti-money laundering / counter-terrorist financing (AML/CTF) purposes.</p> <p>On 29 April 2025, the UK government unveiled draft legislation which <b>expands the scope of the existing financial services regulatory perimeter to cover new cryptoasset activities (including the issuance of stablecoins)</b> for which firms will not be able to perform without becoming authorized. Shortly after, on 2 May 2025, the Financial Conduct Authority (FCA) published a discussion paper (DP25/1) setting out more detailed proposals in relation to some of the activities covered in the draft legislation. The FCA plans to consult on further rules over the course of 2025-2026, with the expectation that the overall regime will be <b>finalized in 2026</b>, followed by implementation of the rules and opening of the authorization gateway.</p> <p>Separately, the financial promotions regime currently applies to a broader range of cryptoasset activities and can capture communications made by overseas entities.</p>	<p><b>The U.S. currently lacks a comprehensive federal regulatory framework for digital assets.</b> Instead, regulation is fragmented across existing financial laws enforced by multiple federal agencies, including the SEC, CFTC, and FinCEN, alongside diverse state-level requirements such as the NYDFS BitLicense.</p> <p>In response to this regulatory patchwork, <b>Congress has begun advancing major legislative proposals</b> to bring clarity and consistency to digital asset oversight. The Financial Innovation and Technology for the 21st Century Act (FIT21), passed by the U.S. House in May 2024, aims to clarify digital asset oversight by dividing regulatory authority between the CFTC and SEC. The Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act, a bipartisan bill, proposes a federal regime for payment stablecoins, requiring full backing by liquid assets, truthful disclosures, and a dual state-federal supervisory model; it recently cleared a preliminary Senate vote after previously stalling despite passing committee.</p> <p>In January 2025, the Trump Administration's Executive Order 14178 directed the President's Working Group on Digital Asset Markets to deliver a coordinated digital asset regulatory framework. This framework, due in late July 2025, is expected to propose clearer jurisdictional boundaries and address gaps in the current classification of digital assets, including stablecoins.</p>
Policy backdrop	<p>MiCA is one element of the EU's broader Digital Finance Package to embrace the digital transformation of finance. That said, the development of MiCA was heavily influenced by Facebook's proposal to issue its own global stablecoin, "Diem". In contrast to the US (and more akin to the UK), the approach of the EU appears to prioritise risk mitigation and control, providing a pathway for new services and market players without disrupting incumbent activities.</p>	<p>The UK government is undertaking reforms and is purporting to help the UK become more competitive and to promote growth. Regulators such as the FCA has been given a secondary objective to encourage growth and international competitiveness, although their primary objectives continues to be ensuring consumer protection and market integrity. Such factors will shape the development of the future regime.</p>	<p>Historically cautious with an enforcement-driven approach, U.S. policy recently shifted towards supporting innovation. Unlike the EU's proactive approach with MiCA, U.S. policymaking has been largely reactive, shaped by market volatility and high-profile events like the collapse of FTX. While the U.S. emphasizes innovation and market competitiveness, its regulatory approach remains more fragmented and enforcement-driven, prioritizing investor protection and systemic risk containment without yet offering a unified path for new entrants.</p>

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<b>Types of regulated cryptoassets</b>	MiCA only covers cryptoassets that do not already fall in scope of existing definitions of financial instruments (e.g. securities) or e-money—such instruments (even in tokenised form) will continue to be regulated under existing rules. Non-fungible tokens (NFTs) are not in scope of MiCA in principle, but regulators will take a substance over form approach.	The UK regime will cover a broad range of cryptoassets, with stablecoins being a subset. Cryptoassets which amount to securities (i.e. one of the forms of traditional investment) will be defined as “ <b>specified investment cryptoassets</b> ” and, under the new draft legislation, the regulated activity of safeguarding (i.e. custodying) cryptoassets will apply to such instruments rather than the “traditional” regulated activity of safeguarding and administering investments. NFTs are not in scope as currently drafted.	<b>No unified definition exists, and regulation depends on asset classification under securities, commodities, or currency laws.</b> Tokens resembling investments typically fall under SEC securities regulations, determined by the Howey Test. Bitcoin and Ether are treated as commodities by the CFTC under the Commodity Exchange Act.  In early 2025, the SEC Division of Corporation Finance issued statements clarifying its view on <b>the security status of stablecoins and meme coins</b> . It stated that certain fiat-backed stablecoins, if fully collateralized, redeemable at par, and marketed purely as payment tools, may not qualify as securities. Meanwhile, meme coins are not inherently securities but may fall under SEC jurisdiction if promoted with profit expectations or tied to investment schemes.
<b>Types of regulated activities / services</b>	<p>MiCA covers the following activities:</p> <ul style="list-style-type: none"> <li>• providing custody and administration of cryptoassets</li> <li>• operation of a trading platform for cryptoassets</li> <li>• exchange of cryptoassets for funds</li> <li>• exchange of cryptoassets for other cryptoassets;</li> <li>• execution of orders for cryptoassets</li> <li>• placing of cryptoassets</li> <li>• reception and transmission of orders for cryptoassets providing advice on cryptoassets</li> <li>• providing portfolio management on cryptoassets</li> <li>• providing transfer services for cryptoassets</li> </ul> <p>MiCA is not intended to cover cryptoasset lending and staking.</p>	<p>The activities introduced under the new regime include:</p> <ul style="list-style-type: none"> <li>• stablecoin issuance</li> <li>• safeguarding (custody)</li> <li>• staking</li> <li>• operating a trading platform</li> <li>• “dealing” in cryptoassets (as principal or as agent) – dealing as principal is intended to capture cryptoasset lending and borrowing services</li> <li>• “arranging deals” in cryptoassets – this is intended to cover (amongst other things) the operation of a cryptoasset lending platform</li> </ul> <p>The UK appears to have decided that advising and portfolio management in relation to cryptoassets will remain outside the regulatory perimeter.</p>	<p>Under the existing fragmented regulatory framework, the following activities, among others, may trigger regulatory oversight, depending on asset classification and service structure</p> <ul style="list-style-type: none"> <li>• stablecoin issuance: may fall under money transmission laws and, in some cases, securities regulation;</li> <li>• digital assets custody: subject to state trust laws or federal guidance if provided by a registered entity (e.g., broker-dealers);</li> <li>• digital assets staking: potentially regulated as investment contracts by the SEC if offered with profit expectations; and</li> <li>• trading platforms: centralized exchanges must register as money services businesses and may also face SEC or CFTC scrutiny depending on listed assets.</li> </ul> <p>Unlike the UK, the U.S. has not excluded advisory or portfolio management services involving digital assets from regulation; these activities are typically subject to existing SEC or state investment adviser regimes if the assets qualify as securities.</p>

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<b>Stablecoins</b>	<p>MiCA envisages two categories of stablecoins:</p> <ul style="list-style-type: none"> <li>• 'e-money tokens' (EMTs) which purport to maintain a stable value by referencing the value of one official currency. EMTs are deemed to be "e-money" for the purpose of <b>relevant payments legislation</b>.</li> <li>• 'asset-reference tokens' (ARTs) which purports to maintain a stable value by referencing another value or right or a combination thereof.</li> </ul> <p>MiCA sets out rules relating to authorisation, whitepaper and marketing communications relating to the issuance of a stablecoin, as well as backing / reserve assets.</p> <p>Additionally, MiCA sets out certain requirements on stablecoins that have reached a defined level of systemic importance (i.e. "<b>significant</b>" EMTs or ARTs).</p>	<p>The regime covers stablecoins referencing (i) a single fiat currency; or (ii) fiat currency and other assets.</p> <p>The proposed legislation includes "issuance of qualifying stablecoin" as a distinct regulated activity, and the FCA will consult on rules relating to issuance, backing assets, redemption rights, custody etc.</p> <p>The regime <b>does not regulate stablecoins from a payments perspective</b> (for now).</p> <p>The Bank of England (BoE) is also developing a regime for regulating <b>systemic stablecoins used for payments</b>.</p>	<p>No federal stablecoin-specific law currently exists, although efforts have been made to develop a federal framework (e.g. the GENIUS Act). In the meantime, general financial and AML laws apply. State-level regulations (e.g., NYDFS reserve guidelines) partially fill this gap.</p> <p><b><i>The Trump's administration Executive Order 14178 supports regulated, dollar-backed stablecoins, while proposes a prohibition of Central Bank Digital Currencies (CBDC),</i></b> spurring multiple legislative proposals in Congress, though none have become law as of May 2025.</p>
<b>Decentralized Finance (DeFi)</b>	<p>"Fully" decentralized activities are out of scope of MiCA.</p> <p>EU Commission is mandated to issue an (interim) report which will include DeFi (among other things) in June 2025.</p> <p>The Danish FSA published a report in June 2024 outlining principals for determining degree of (de)centralization.</p>	<p>"Truly" decentralised activities are out of scope — however, the FCA will on a case-by-case basis determine if there is an identifiable intermediary with sufficient control.</p> <p>The FCA is seeking feedback on how to determine the degree of (de)centralization.</p>	<p>There is currently no bespoke regulatory framework governing DeFi. Existing financial regulations may still apply to DeFi platforms when they engage in activities covered by securities, commodities, or money transmission laws.</p>

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<b>Geographical scope</b>	<p>The authorisation requirement for providing cryptoasset services within the EU includes those located outside the EU. MiCA also sets out physical presence requirements (e.g. registered office, having a director resident in the EU). This is the case even where the customers are institutional clients.</p> <p>Authorisation requirements for stablecoin issuers also apply to those based outside the EU.</p>	<p>Overseas firms without an authorised UK presence will largely be prevented from doing business directly with UK consumers. However, overseas firms providing certain crypto services only to institutional customers will not usually need to be authorised.</p> <p>In terms of stablecoin issuances, the regime is intended to apply to issuers who are established in the UK, but issuers outside the UK will continue to be subject to restrictions on their ability to market stablecoins into the UK.</p>	<p>U.S. regulations apply broadly based on the activity's impact on U.S. customers or markets, regardless of the entity's physical location.</p>
<b>Reverse solicitation</b>	<p>MiCA includes an exemption for reverse solicitation (i.e. for an unauthorised firm outside the EU to provide services to an EU clients when that service is provided at the "exclusive initiative" of the client).</p> <p>The circumstances under which the exemption apply are narrowly prescribed (as per ESMA guidelines, which are designed to prevent circumvention of MiCA requirements).</p>	<p>The UK does not have a direct equivalence of the reverse solicitation mechanism under EU's MiCA in relation to cryptoassets.</p> <p>Where a UK client approaches a provider in another country at their own initiative, such provider may still fall in scope of authorisation requirements.</p>	<p>The U.S. does not have a direct equivalence of the reverse solicitation mechanism under EU's MiCA in relation to cryptoassets.</p> <p>Even where a U.S. client initiates contact with a foreign provider, the provider may still be subject to U.S. regulatory requirements depending on the facts and circumstances. Foreign entities engaging U.S. consumers are subject to relevant U.S. federal and state laws or enforcement action.</p>
<b>Financial promotions</b>	<p>There is no overarching financial promotion restriction (in the way that there is for the UK) but where any person contacting customers in the EU to promote services to them <b>may well be regarded as doing a regulated activity</b> in that jurisdiction (for which authorisation would be required).</p> <p><b>Local laws have varying rules</b> relating to financial promotions (e.g. Spain, France).</p>	<p>Financial promotions relating to cryptoassets can only be communicated to someone in the UK (regardless of whether the communication originates from inside or outside the UK) if (i) the promotion is <b>made by a UK-authorised person</b>; (ii) the promotion has been formally <b>signed off by a UK-authorised person</b>; or (iii) the communication is covered by <b>an exemption</b>.</p> <p>Communications to institutional investors are usually covered by an exemption, but communications with retail customers will not normally be exempt – meaning that, in practice, only UK-authorised persons can make promotions to such customers.</p>	<p>There is currently <b>no unified, crypto-specific financial promotions regime in the United States</b>.</p> <p>However, the marketing of digital assets is subject to existing advertising, securities, and consumer protection laws. If a digital asset qualifies as a security, disclosure rules apply rigorously, and promotional activities must comply with SEC regulations. Undisclosed paid endorsements, misleading claims, or other deceptive marketing practices can trigger enforcement actions from the SEC, FTC, and other regulatory bodies.</p>



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