

REGULATORY INTELLIGENCE

COUNTRY UPDATE-Greece: Crypto-asset regulation

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Few areas of finance are developing faster than crypto-assets, a category that includes cryptocurrencies, securities tokens and utility tokens, whose common feature is use of distributed ledger technology (DLT). Their rise has led to calls for better regulation due to potential investor protection, money laundering and market integrity risks.

Several European governments have enacted or proposed legislation affecting crypto-assets. Regulatory differences can also arise when EU member states transpose directives into national law.

The EU's proposed [Markets in Crypto-Assets Regulation](#) (MiCA) would establish a framework for issuing crypto-assets and providing services relating to them. This includes stablecoins: crypto-assets purporting to maintain value by reference to another asset or assets.

This article provides an outline of EU legislation followed by an overview of crypto-asset regulation in Greece by [Giannis Koumettis](#) and [Giorgos Filippakis](#) of [Souriadakis Tsibris Law Firm](#).

Principal existing EU legislation:

Money Laundering Directives [EU 2015/849](#) and [EU 2018/843](#)

The Fifth Money Laundering Directive (5MLD) extended the Fourth Money Laundering Directive (4MLD) regime to "providers engaged in exchange services between virtual and fiat currencies" and to "custodian wallet providers".

Second Electronic Money Directive [EU 2009/110](#) (EMD2)

Article 2(2) of EMD2 defines electronic money as "electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions ... and which is accepted by a natural or legal person other than the electronic money issuer".

Some stablecoins can be "electronic money tokens" under this definition.

Revised Markets in Financial Instruments Directive [EU 2014/65](#) (MiFID 2)

Some crypto-assets qualify as "financial instruments" under MiFID 2, art 4(1) point 15 and the associated list in section C of annex 1.

The proposed MiCA regulation (COM 2020/593)

MiCA would apply to persons engaged in the issuance or provision of services related to crypto-assets not within scope of existing EU regulation.

It distinguishes between stablecoins and other crypto-assets. Stablecoins are divided into "asset-referenced tokens" and "electronic money tokens". Any that pass threshold conditions would be classified as "significant" by the European Banking Authority (EBA).

Crypto-asset regulation in Greece**1. Which body regulates crypto-assets and related services?**

Although crypto-assets are today largely unregulated in Greece, as they fall outside the scope of the MiFID II implementing Law No. 4514/2018, the Hellenic Capital Market Commission (HCMC) exercises a form of supervision on crypto-related entities having an obligation to register with the HCMC before providing their services to the Greek market.

With the implementation of [Directive \(EU\) 2018/843](#) (AMLD V) and the subsequent amendment of Law No. 4557/2018 (AML Law), the notion of "obliged entities" (Art. 5 AML Law) was expanded as to include entities offering any of the below services (the Crypto Services):

- (a) exchange services between virtual currencies and fiat currencies;
- (b) custodian wallet services.

Following the above-described expansion of the notion of "obliged entities", the HCMC proceeded to issue Decision No. 5/898/3.12.2020 (the HCMC crypto decision). Art 1 par 1 of the HCMC crypto decision provides that "providers of exchange services between virtual currencies and fiat currencies and custodian wallet providers, intending to provide their services in Greece or from Greece to other states, shall submit a registration application before commencing their activities".

The registration obligation concerns locally established entities, as well as offshore entities providing the relevant services on a cross-border basis.

The registration procedure provided by the HCMC crypto decision involves the assessment of a number of documents, including the following:

- Business plan setting out, inter alia, the business objectives, the origin and type of customers, the employees of the provider, governance topics, the adequacy of financial and other resources, information on the volume and value of transactions, pricing and main sources of income and expenses;
- Organizational structure of the provider, including IT security policies and procedures;
- Details on the Compliance Officer (Art. 38 of the AML Law);
- A wide range of policies and procedures, which cover the requirements set out by Art 35 of AML Law. The policies include, inter alia, (a) AML policy (b) anti-bribery/corruption policy (c) conflicts of interest policy (d) unusual activity and escalation policy (e) whistleblowing policy.

The registration application is subject to certain filing and maintenance fees (i.e., a one-time fee of 1,500 euros and an annual fee of 1,000 euros, plus stamp duties). HCMC usually processes the registration application within two months following its submission, however the registration procedure may go beyond the two-month period, if additional documents/information are requested by the regulator.

Locally established entities providing crypto services are captured by the territorial scope of the AML Law and, other than the registration with the HCMC, they are also required to register with the Hellenic Financial Intelligence Unit (Hellenic FIU) so as to be able to submit suspicious activity reports (SARs). The Hellenic FIU holds the view that the same obligation (i.e., to register with its suspicious activity reporting system) also applies to offshore entities operating in Greece on a pure cross-border basis, even though these entities generally fall outside the ambit of the AML Law.

In conclusion, exchange services between virtual currencies and fiat currencies, as well as custodian wallet services, are captured by the local AML Law. Entities offering such services from a local establishment or on a cross-border basis are obliged, pursuant to the provisions of the HCMC crypto decision, to register with a special registry maintained by the HCMC. Additionally, a registration with the Hellenic FIU is also necessary, as to enable those entities to submit SARs.

2. Does any non-EU-derived law regulate crypto-assets or crypto-asset service providers such as exchanges?

Other than the AML Law and the HCMC crypto decision, no other statutes regulate crypto-assets or crypto-asset service providers.

3. Has a national law or regulation defined "crypto-asset" and/or "cryptocurrency"?

Art. 3 par. 24 of the AML Law defines "virtual currencies" as "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".

Judgement no. 88/2021 by the Court of Appeals of Western Continental Greece, which examined bitcoin in particular, adopted the view that "[...] according to Greek legal order, bitcoin is considered digital data, not a currency. In essence, it is a digital unit of value, with no physical substance, which can be exchanged electronically [...]".

Furthermore, recital nr. 10 of AMLD V provides that "virtual currencies should not be confused with electronic money as defined in point (2) of Article 2 of [Directive 2009/110/EC](#) of the European Parliament and of the Council, with the larger concept of 'funds' as defined in point (25) of Article 4 of [Directive \(EU\) 2015/2366](#) of the European Parliament and of the Council, nor with monetary value stored on instruments exempted as specified in points (k) and (l) of Article 3 of [Directive \(EU\) 2015/2366](#), nor with in-games currencies, that can be used exclusively within a specific game environment.



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Although virtual currencies can frequently be used as a means of payment, they could also be used for other purposes and find broader applications such as means of exchange, investment, store-of-value products or use in online casinos. The objective of this Directive is to cover all the potential uses of virtual currencies".

Based on the above, the vast majority of "crypto-assets"/"cryptocurrencies" will generally fall within the broad definition of "virtual currencies", as provided by Art. 3 par. 24 AML Law and further clarified by recital nr. 10 of AMLD V.

4. What money laundering regulations, including any due diligence requirements, apply to crypto-assets?

Entities captured by the AML Law (i.e., entities described in the answer provided to question nr. 1) will have to comply with the relevant provisions of that law, including due diligence requirements:

- Simplified due diligence measures include, inter alia, the verification of the identify of the customer, the verification of the identify of the beneficial owner, the assessment of the purpose of the business relationship and the continuous supervision of the business relationship.
- Enhanced due diligence measures include, inter alia, the collection of additional information, the thorough examination of the business relationship, or even the termination of the business relationship in certain cases.

5. What rules apply to the promotion of crypto-assets?

The promotion of crypto-assets is not subject to any special requirements from a Greek law perspective. For business relationships governed by Greek law, the general provisions of the Greek Civil Code (GCC) will apply, including:

- Article 281 of the GCC, which provides that rights shall not be exercised in an abusive manner;
- Article 288 of the GCC, which provides that contractual terms shall be fulfilled in accordance with the concepts of "good faith" and "moral conventions" (which are generally defined by case law);
- Article 332 of the GCC, which provides that it is not permitted to contractually waive liability from gross negligence or fraud.

Further to the above, the promotion and subsequent establishment of a business relationship of a crypto provider with a consumer, will likely fall within the ambit of the consumer protection Law No. 2251/1994 (the Consumer Protection Law). In such cases, certain restrictions will apply on standardized contractual terms (General Terms and Conditions), in the sense that their provision and/ or invocation may be deemed as abusive. In addition to that, General Terms and Conditions of contracts concluded with Greek consumers, may need to be drafted in Greek language.

6. Do different crypto-asset rules apply to wholesale and retail markets, for example, on the sale of derivatives?

The AML Law and the HCMC crypto decision do not distinguish between wholesale and retail markets, so the same rules apply, as set out above.

7. Does any existing or proposed national law impose requirements on issuers of stablecoin?

There is no existing or proposed national law imposing requirements on issuers of stablecoins, however, the proposed [MiCA Regulation](#) will very likely cover this topic.

[Complaints Procedure](#)

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