

Guidelines

For the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA)

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1 Scope

Who?

1. These guidelines apply to:
 - a. competent authorities and
 - b. crypto-asset service providers as defined in Article 3(1)(15) of MiCA.

What?

2. These guidelines apply in relation to the provision of crypto-asset services listed in Article 3(1)(16) of MiCA.

When?

3. These guidelines apply from 6 months from the date of their publication on ESMA's website, in all official EU languages.

2 Legislative references, abbreviations and definitions

2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ¹
IDD	Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution ²
MiCA	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) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ³
MiFID II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

2.2 Abbreviations

EU	European Union
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority

2.3 Definitions

4. Unless otherwise specified, terms used in MiCA have the same meaning in these guidelines. In addition, the following definitions apply:

¹ OJ L 331, 15.12.2010, p. 84.

² OJ L 26, 2.2.2016, p. 19–59.

³ OJ L 150, 9.6.2023, p. 40–205.

- a. 'Staff' means natural persons providing relevant services to clients on behalf of the crypto-asset service provider.
- b. 'Relevant services' means giving advice or information on crypto-assets or crypto-asset services to clients.
- c. 'Giving information' means directly providing information to clients about crypto-assets or crypto-asset services, either upon the request of the clients or at the initiative of the crypto-asset service provider, in the context of the provision by the staff member to the client of any of the services listed in Article 3(1)(16) of MiCA.
- d. 'Knowledge and competence' means having acquired an appropriate qualification and appropriate experience to fulfil obligations in Articles 68 and 81 of MiCA in order to provide the relevant services.
- e. 'Appropriate qualification' means a qualification or other test or training course that meets the criteria set out by these guidelines.
- f. 'Appropriate experience' means that a member of staff has successfully demonstrated the ability to perform the relevant services through previous work. Beyond the minimum guidance regarding appropriate experience set out in these guidelines, the competent authority can differentiate the period of experience, depending on the appropriate qualification attained by staff and also depending on the relevant services being provided.
- g. 'Under supervision' means providing the relevant services to clients under the responsibility of a staff member who has both an appropriate qualification and appropriate experience.

3 Purpose

- 5. These guidelines, developed by ESMA, are based on Article 81(15)(a) of MiCA and Article 16(1) of the ESMA regulation. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in Articles 68(5) and 81(7) of MiCA.
- 6. In particular, ESMA expects these guidelines to promote greater convergence in the criteria for the assessment of knowledge and competence of staff providing advice or information about crypto-assets or crypto-asset services and their application. These guidelines provide important guidance to assist crypto-asset service providers in meeting their obligations to act in the best interest of their clients and to assist competent

authorities to adequately assess how crypto-asset service providers meet these obligations. In complying with these guidelines, ESMA anticipates a corresponding strengthening of investor protection.

7. The Annex includes a number of illustrative examples of how a crypto-asset service provider might apply the guidelines.

4 Compliance and reporting obligations

4.1 Status of the guidelines

8. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and crypto-asset service providers shall make every effort to comply with these guidelines.
9. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants, i.e., crypto-asset service providers. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

10. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
11. A template for notification is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
12. Crypto-asset service providers are not required to report whether they comply with these guidelines.

5 Guidelines for the criteria on the assessment of knowledge and competence⁴

5.1 General (Guideline 1)

13. Crypto-asset service providers should ensure that staff providing relevant services possess the necessary knowledge and competence to meet the relevant regulatory and legal requirements and business ethics standards.
14. Crypto-asset service providers should ensure that staff know, understand, and apply the crypto-asset service provider's internal policies and procedures designed to ensure compliance with MiCA. In order to ensure a proportionate application of knowledge and competence requirements, crypto-asset service providers should ensure that staff have the necessary levels of knowledge and competence to fulfil their obligations, reflecting the scope and degree of the relevant services provided.
15. The management body of the crypto-asset service provider should, at least on an annual basis, assess and review the effectiveness of the policies and procedures established to comply with Articles 68(5) and 81(7) of MiCA and these guidelines and should take appropriate measures to address any deficiencies identified in that respect.
16. The level and depth of knowledge and competence expected for staff giving advice on crypto-assets and crypto-asset services should be of a higher standard than those that only give information on crypto-assets and crypto-asset services.
17. Where information or advice about crypto-assets or crypto-asset services is provided in an automated or semi-automated manner, crypto-asset service providers should ensure that these guidelines apply to staff responsible for determining the content of the information or advice delivered to clients. Staff setting the parameters and deciding on the settings for such information or advice to be delivered should also have sufficient knowledge and competence to ensure that appropriate information or advice is provided accurately, in adequate circumstance and to the right recipients.

⁴ These guidelines apply without prejudice to any other guidelines on the knowledge and competence of staff providing financial services, for example, the MiFID II Guidelines for the assessment of knowledge and competence (ESMA71-1154262120-153).

5.2 Criteria for knowledge and competence of staff giving information about crypto-assets or crypto-asset services (Guideline 2)

18. Crypto-asset service providers should ensure that staff giving information about crypto-assets or crypto-asset services available through the crypto-asset service provider have the necessary knowledge and competence to understand:
- a. the key characteristics, risks and features of the crypto-asset services offered by the crypto-asset service provider and the crypto-assets made available through these crypto-asset services by the crypto-asset service provider, as well as the functioning of distributed ledger technology and the key features and functioning of the different protocols used and the impact they may have for transactions in crypto-assets or crypto-asset services. Particular care should be taken when giving information with respect to risks related to the crypto-assets characterised by higher levels of complexity and volatility;
 - b. the types of costs and charges to be incurred by the client in the context of transactions in crypto-assets, or provision of crypto-asset services, and how they contribute to the total amount; including fees crypto-asset service providers charge for their own services and other costs such as those incurred through the relevant DLT network (e.g., gas fees);
 - c. how crypto-asset markets function and how they affect the value and pricing of crypto-assets on which the staff provide information to clients, including:
 - the features, functioning and risk of the different types of crypto-assets;
 - the potential impact of investor sentiments and social media on rapid price changes of crypto-assets in very short time periods (“high price volatility”), which may be difficult to predict;
 - the potential impact of holders of large amount of crypto-assets on the liquidity and price volatility in crypto-asset markets⁵;

⁵ For example, in relation to liquidity, investors holding a large number of a crypto-asset often keep their holdings for a longer time period, thus decreasing the available supply of the crypto-asset in the market for other investors. Or, relating to volatility, holders of a large number of a crypto-asset may cause significant price movements in the market when they suddenly sell a large portion or the totality of their holdings.

- d. the impact of economic figures, crucial national/regional/global events on markets and on the value of crypto-assets on which they provide information;
- e. the difference between past performance and future performance scenarios as well as the limits of predictive forecasting;
- f. the differences between the investor protection safeguards for clients investing in crypto-assets and using crypto-asset services under MiCA and clients investing in financial instruments and using investment services regulated under the MiFID II framework, as well as the impact of these differences on the protection of clients investing in crypto-assets and using crypto-asset services;
- g. issues relating to market abuse and anti-money laundering and terrorist financing;
- h. data relevant to the crypto-assets on which the staff provide information to clients such as provided by white papers, financial statements, or financial data;
- i. specific market structures for the crypto-assets on which the staff provide information to clients and, where relevant, their trading platforms⁶ or the existence of any secondary markets;
- j. basic valuation mechanisms applicable to crypto-assets in relation to which the information is provided.

For the purposes of a. above, the key risks to be considered should include, as a minimum:

- volatility;
- cyber security risks, such as risks of hacks and theft of clients' crypto-assets;
- risks related to client's inappropriate storage of their private cryptographic keys;
- IT programming risks, for example malfunctioning of IT programs due to shortcomings in software programming ("bugs") could lead to the loss of clients' crypto-assets;
- risks related to crypto-asset transfers such as the risk of losing crypto-assets, if clients choose a DLT network which is not supported for the transfer of the crypto-asset.

⁶ For example trading platforms for crypto-assets which are open 24 hours.

For the purposes of a. above and, more specifically, the understanding of the key features and functioning of specific protocols, staff giving information about crypto-assets or crypto-asset services should notably have a basic understanding of, at least:

- the consensus mechanism applicable to the protocol and its consequences,
- the rules for the validation of transactions on this protocol,
- the scalability of the protocol,
- its decentralisation level and governance structure, the measures in place to protect the network from attacks or frauds,
- its interoperability,
- its use case (the primary purpose or application the protocol is designed to support such as payment systems, supply chain, smart contracts),
- the economic model governing the crypto-asset, including supply, distribution, and incentives for validation.

19. Crypto-asset service providers should ensure that staff giving information about crypto-assets or crypto-asset services on their behalf have obtained, prior to providing such information, the relevant knowledge and competence on the points set out in paragraph 18. This should be demonstrated by passing an assessment conducted either by the crypto-asset service provider itself or an external body and the obtention of, for example:
- a. a professional qualification of at least 80 hours and appropriate experience of at least 6 months under supervision; or
 - b. appropriate experience of at least 1 year under supervision.
20. Existing members of staff giving information on crypto-assets or crypto-asset services⁷ on the date of entry into application of these guidelines may be considered by crypto-asset service providers as having the necessary knowledge and competence to fulfil their obligations, by (i) successfully giving information on crypto-assets or crypto-asset services on a full-time equivalent basis, (ii) under or without supervision, and (iii) for a minimum period of 1 year, prior to the entry into application of these guidelines.

⁷ This includes members of staff who provided information on crypto-assets or crypto-asset services to clients on the behalf of virtual asset service providers (VASPs) under a pre-MiCA national regulatory framework.

21. Crypto-asset service providers should determine, based on the nature of the crypto-assets and crypto-asset services on which they give information, the adequate minimum number of hours of continuous professional development or training (CPD) per year that staff giving information about crypto-assets or crypto-asset services should complete, taking into account:
- the existing knowledge and competence of staff members giving information about crypto-assets or crypto-asset services; and
 - applicable regulatory changes, key market developments and newly emerging technologies, including potential related risks for investors.

For example, staff giving information on a limited range of crypto-assets or crypto-asset services of the least complex nature should complete a number of CPD hours of 10 hours.

Crypto-asset service providers should ensure that their staff giving information on crypto-assets or crypto-asset services complete the relevant number of hours of CPD per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

5.3 Criteria for knowledge and competence for staff giving advice about crypto-assets or crypto-asset services (Guideline 3)

22. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services comply with paragraph 18 of Guideline 2, as such guidance is also relevant for staff giving advice about crypto-assets or crypto-asset services.
23. In addition, crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services understand:
- a. the total amount of costs and charges to be incurred by the client in the context of the advice provided, including fees crypto-asset service providers charge for their own services (including for advice) and other costs such as those incurred through the relevant DLT network (e.g. gas fees);
 - b. the obligations of crypto-asset service providers in relation to the suitability requirements under Article 81 of MiCA, including the obligations as set out in the

Guidelines on certain aspects of the suitability requirements and format of the periodic statement for portfolio management activities under MiCA⁸;

- c. how crypto-assets or a specific crypto-asset provided by the crypto-asset service provider may not be suitable for the client, having assessed the relevant information provided by the client against potential changes that may have occurred since the relevant information was gathered;
 - d. the fundamentals of managing a portfolio, including being able to understand the implications of diversification regarding individual investment alternatives; and
 - e. understand the valuation mechanisms applicable to the crypto-assets subject to the advice.
24. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services on behalf of the crypto-asset service provider have obtained, prior to providing such advice, the relevant knowledge and competence on the points set out in paragraphs 22 and 23. This should be demonstrated by passing an assessment conducted either by the crypto-asset service provider itself or an external body and following, for example, the obtention of:
- a. a degree of tertiary education⁹ of three years of study relevant for the provision of advice on crypto-asset or crypto-asset services and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
 - b. a secondary education degree and a professional formation of at least 3 years and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
 - c. a professional formation of at least 160 hours and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
 - d. professional experience of at least 2 years which was acquired in the provision of advice under MiFID II or IDD preceding the start of the provision of advice on crypto-assets and crypto-asset services and appropriate experience of at least 6 months in the provision of the relevant crypto-asset services under supervision.

⁸ Available [here](#)

⁹ For example a university degree or equivalent in a field such as economics, law or business administration.

25. Existing members of staff giving advice on crypto-assets or crypto-asset services¹⁰ on the date of entry into application of these guidelines may be considered by crypto-asset service providers as having the necessary knowledge and competence to fulfil their obligations by (i) successfully providing advice on crypto-assets or crypto-asset services on a full-time equivalent basis, (ii) under or without supervision, and (iii) for a minimum period of 1 year prior to the entry into application of these guidelines.
26. Crypto-asset service providers should determine, based on the nature of the crypto-assets and crypto-asset services on which they give advice, the adequate minimum number of hours of continuous professional development or training (CPD) per year that staff giving advice about crypto-assets or crypto-asset services that are available through the crypto-asset service provider should complete, taking into account:
 - a. the existing knowledge and competence of staff members giving advice about crypto-assets or crypto-asset services¹¹ ;
 - b. regulatory changes, key market developments and newly emerging technologies, including potential related risks for investors.

For example, staff giving advice on a limited range of crypto-assets or crypto-asset services of the least complex nature should complete a number of CPD hours of 20 hours.¹²

Crypto-asset service providers should ensure that their staff giving advice about crypto-assets or crypto-asset services complete the relevant number of hours of CPD per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

¹⁰ This includes members of staff who provided advice on crypto-assets or crypto-asset services to clients on the behalf of virtual asset service providers (VASPs) under a pre-MiCA national regulatory framework.

¹¹ For example, staff providing advice on complex crypto-asset containing client portfolios may need more CPD hours per year than staff providing advice on regular monthly crypto-asset investments of small amounts.

¹² As the provision of advice on crypto-assets or crypto-asset services is a more complex service than giving information on crypto-assets or crypto-asset services, these 20 hours of CPD cover the 10 hours of CPD set out in paragraph 21.

5.4 Organisational requirements for assessment, maintenance and updating of knowledge and competence (Guideline 4)

27. Crypto-asset service providers should set out the responsibilities of staff and ensure that, where relevant, in accordance with the services provided by the crypto-asset service provider and its internal organisation, there is a clear distinction in the description of responsibilities between the roles of giving advice and giving information.
28. Crypto-asset service providers should:
- a. ensure that staff providing relevant services to clients are assessed through the successful completion of an appropriate qualification and having gained appropriate experience in the provision of relevant crypto-asset services to clients;
 - b. carry out an internal or external review, on at least an annual basis, of staff members' development and experience needs, assess regulatory developments and take action necessary to comply with applicable requirements. This review should also ensure that staff possess an appropriate qualification and maintain and update their knowledge and competence by undertaking continuous professional development or training, at least in accordance with the relevant minimum guidance set out in these guidelines. This should also include specific training in advance of any new type of crypto-asset or crypto-asset service being offered by the crypto-asset service provider;
 - c. ensure that they submit to their competent authority, on request, records concerning knowledge and competence of staff providing relevant services to clients. These records should contain information that enables the national competent authority to assess and verify compliance with these guidelines;
 - d. ensure that when a member of staff has not acquired the necessary knowledge and competence in the provision of the relevant crypto-asset services, this staff member cannot provide the relevant services. Where a member of staff has not acquired the appropriate qualification or the appropriate experience to provide the relevant crypto-asset services or both, this staff member should be allowed to provide the relevant services under supervision. The level and intensity of supervision should reflect the relevant qualification and experience of the staff member being supervised and this could include, where appropriate, supervision during meetings with clients and other forms of communication such as telephone calls and e-mails. CASPs should ensure that a staff member who has not acquired the necessary knowledge and experience should be able to work under supervision for a maximum period of 4 years, except where a shorter period is determined by the competent authority;

- e. ensure that, in situations under letter d., the staff member supervising other staff has the necessary knowledge and competence referred to in these guidelines and the necessary skills and resources to act as a competent supervisor;
- f. ensure that the supervision provided is tailored to the services to be provided by that staff member and cover the principles of these guidelines relevant to those services;
- g. ensure that the supervisor takes responsibility for the provision of the relevant services when the staff member under supervision is providing relevant services to a client, as if the supervisor is providing the relevant services to the client, including signing-off the suitability report where advice is being provided.

Annex: Illustrative examples of the application of certain aspects of the guidelines

Examples relating to the scope of the guidelines

29. The following examples set out instances where a staff member would not fall within the scope of the guidelines:
- a. employees only pointing out where clients can find information provided by the crypto asset service provider;
 - b. employees distributing brochures and leaflets to clients without giving additional information with regards to its content or providing any follow up crypto-asset services to those clients;
 - c. employees who only hand over information at the client's request without giving any additional information with regards to its content or providing any follow up crypto-asset services to those clients; and
 - d. employees who perform back-office functions without direct relevance for clients, and do not have direct contact with the clients.¹³

General examples relating to Guideline 1:

30. A crypto-asset service provider provides regular mandatory training to staff in the area of MiCA conduct of business, and organisational requirements.
31. The crypto-asset service provider adopts a code of ethics to set forth the standards of business conduct and behaviour necessary for the proper provision of relevant services and obtain written acknowledgements from staff that they have read, understood and complied with it.

Examples relating to the Guidelines 1, 2 and 3:

32. A crypto-asset service provider provides regular mandatory training to staff in the features and characteristics, including potential risks, of the crypto-assets offered by the

¹³ However, employees in charge of drafting and publishing information with direct relevance for clients (e.g. - information regarding crypto-assets including recommendations to buy crypto-assets available on their platform) would be in scope of these guidelines, even though they may not be in direct contact with clients.

provider. This comprises training about products newly offered by the crypto-asset service provider.

33. A crypto-asset service provider ensures its staff are familiar with the situations in which conflicts of interest arise and how to apply the policies and procedures to identify, prevent, manage and disclose conflicts of interest established by the crypto-asset service provider in accordance with Article 72 of MiCA.
34. A crypto-asset service provider ensures its staff are familiar with the situations as to when a crypto-asset service provider may pay or receive an inducement and the relevant legal requirements regulating inducements.
35. CPD courses also include as part of the training and exam assessments of the participant facing client and providing advice in a practical context, which includes for example finding out the client's investment objectives, the comparison of different products and the explanation of crypto-asset related risks to the client.

Examples relating to Guidelines 3 and 4

36. A crypto-asset service provider regularly monitors the suitability assessments provided by staff to assess whether the staff member has considered all aspects of the suitability requirements, against the specific details of the crypto-asset.
37. A crypto-asset service provider regularly monitors that relevant staff giving advice demonstrate:
 - a. ability to ask appropriate questions to the client to understand her/his investment objectives, financial situation and knowledge and experience;
 - b. ability to explain the risks and rewards of a particular crypto-asset or strategy to the client;
 - c. ability to compare selected crypto-assets with regards to key features and risks, to be able to select the crypto-asset best suited to the client profile.

Examples relating to Guideline 4

38. The crypto-asset service provider documents staff roles and responsibilities and evaluates their performance against key set criteria contained in the description of responsibilities.

39. Crypto-asset service providers communicate publicly, in a way that is consistent and meaningful to clients, their criteria for demonstrating how staff comply with these guidelines.
40. Continuous or on-going professional development is required in order for staff to hold the “appropriate qualification”. This ongoing assessment contains updated material and tests staff on their knowledge of, for example, regulatory changes, new crypto-assets and services available on the market. This ongoing assessment:
 - a. may involve training in the form of courses, seminars, independent studies or learning; and
 - b. includes an exam to verify that the staff has acquired the necessary knowledge and competence.
41. Crypto-asset service providers verify the relevance of continuous on-ongoing development being provided to staff providing relevant services.