

NEWSLETTER DIRITTO BANCARIO E DEI MERCATI FINANZIARI

THE STATE OF THE ART OF EU AND ITALIAN LEGISLATIVE DEVELOPMENTS ON STABLE COINS AND TOKENS

The purpose of this brief report is to understand the state of the art of the EU and Italian rules regarding stable coins and tokens.

On 24 September 2020 the European Commission adopted a digital finance package, including a digital finance strategy and legislative proposals on crypto-assets (the "Proposals"). Importantly, the aim of the Commission is to enhance digital resilience, promoting a competitive EU financial sector that gives consumers access to innovative financial products, while ensuring consumer protection and financial stability. The package indeed supports the EU's ambition for a recovery that embraces the digital transition as digital financial services can help modernise the European economy across sectors and turn Europe into a global digital player.

Specifically, the Proposals include:

- the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Markets in Crypto-assets ("MICA"), and amending Directive (EU) 2019/1937 which you can find [here](#), accompanied by the Commission [Impact assessment](#) which you can find [here](#); and
- the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Pilot Regime for Market Infrastructures based on Distributed ledger Technology ("PILOT REGIME") which you can find [here](#), accompanied by the Commission Staff Working Document Impact Assessment which you can find [here](#)

In essence, as to MICA, its scope of intervention is limited to those called utility tokens or the so-called payment-like or monetary tokens. In particular, reference is made to the notion of "Stablecoins", which in turn includes the two sub-categories of "asset-referenced tokens" and "e-money tokens". By contrast, the PILOT REGIME, which is intended to allow the development of a secondary market for crypto-assets as necessary and ideal complement to MICA, addresses those crypto-assets that can be described and / or qualified and

/ or assimilated as / to "financial instruments" pursuant to MIFID, and, therefore, qualify as "security tokens".

With an eye on the Italian market, it is instead important to notice that on the 2nd January 2020, the Italian regulator, Consob, published a Final report (Report) on Initial offers (ICOs) and Exchanges of Crypto-Assets (which you can find [here](#)) In a nutshell, the underlying objective of the Report clearly seems to favor the phenomenon of ICOs of (basically) utilities tokens by creating a first framework of discipline that guarantees reliability requirements for the issuer in order to protect investors, recognizing, at the same time, the technical-operational specificity of this phenomenon.

To conclude, it is clear that regulators have started to address the challenges and issues posed by new financial technologies and new legislative developments are thus expected in the near future.

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