

Irish and EU Regulators Warn Retail Investors of Risks of Investing in Cryptoassets

On 22 March 2022, the Central Bank of Ireland ("Central Bank") issued a fresh warning for consumers on investing in cryptoassets¹ and a plain English explainer² for consumers on cryptocurrencies as part of a European-wide campaign by the European Supervisory Authorities ("ESAs").

Central Bank Warning

Highlighting their risky and speculative nature, the Central Bank warned cryptoassets may not be suitable for retail customers.

Against the backdrop of growing consumer interest and increasing levels of advertising and aggressive promotion of cryptoasset investments, consumers should be alert to the risks of misleading advertisements, including via social media and influencers.

Before buying cryptoassets, consumers should consider whether they can afford to lose all the money invested, question whether promised returns seem too good to be true and be aware that if things go wrong, they do not have the protections they would have if they invested in a regulated product.

¹ <https://www.centralbank.ie/news/article/central-bank-warning-on-investing-in-crypto-assets-22-march-2022>

² <https://www.centralbank.ie/consumer-hub/explainers/what-are-cryptocurrencies-like-bitcoin>

Europe-Wide Campaign

The Central Bank's warning follows the ESA's announcement on the risks of cryptoassets³ issued on 17 March 2022 which set out key steps consumers can take to ensure they make informed decisions and the key risks of cryptoassets including: extreme price movements; misleading information; absence of protection; product complexity; fraud or malicious activities; market manipulation, lack of price transparency and low liquidity; and hacks, operational risks and security issues.

Regulation of Cryptoassets Providers

The Fifth Money Laundering Directive EU/2018/843⁴ brought previously unregulated cryptoassets within its scope and since April 2021, Virtual Asset Service Providers are subject to Fitness and Probity and anti-money laundering and countering the financing of terrorism requirements under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. For further details, please see our update *Introducing the Irish AML Regime for Crypto Providers*⁵.

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https://www.esma.europa.eu/sites/default/files/library/esa_2022_15_joint_esas_warning_on_crypto-assets.pdf

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843>

⁵ <https://maples.com/en/knowledge-centre/2021/4/introducing-the-irish-aml-regime-for-crypto-providers>

Otherwise, cryptoassets, which do not qualify as regulated products such as e-money or financial instrument, and related services, typically fall outside existing protection under current EU financial services rules.

On 23 March 2022, the European Parliament published the report⁶ adopted by its Economic and Monetary Affairs Committee on the European Commission's legislative proposal⁷ for a Regulation on markets in cryptoassets ("MiCA"). MiCA proposes a comprehensive framework for the regulation and supervision of issuers and providers of cryptoasset services, with a view to protecting investors and the integrity and stability of the financial system. If introduced, this regime would establish an EU-wide framework, similar to the current MiFID framework, for cryptoassets which are not financial instruments, and provide for investor protection, conduct, safeguarding and prudential requirements for in-scope providers, and a passporting regime to facilitate pan-European access and consistency in how these assets and providers are regulated in the EU.

How We Can Help

Our Irish Financial Services Regulatory Group has guided firms through the Virtual Asset Service Provider registration process with the Central Bank and regularly advises clients on how the existing regime applies to different assets and tokens being considered by new issuers and exchange or custody platforms, and what activities trigger registration or authorisation requirements. We are also closely monitoring MiCA's development and its impact on the issue and distribution of cryptoassets in Ireland and the EU.

⁶ https://www.europarl.europa.eu/doceo/document/A-9-2022-0052_EN.html#title3

⁷ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020PC0593>

Further Information

Further information on our Irish Financial Services Regulatory Group, and the services we provide is available on our website page⁸ and in our brochure⁹.

For further details, please liaise with your usual Maples Group contact or:

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⁸ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

⁹ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group---core-services.pdf>