

Article Information

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Blockchain Bites: EU finally approved MiCA, Mastercard Launches Music Pass NFTs, Nike drops NFT collection, AML/CTF regime set for a shake up

Michael Bacina, Steven Pettigrove, Tim Masters, Jake Huang, Luke Misthos, Luke Higgins and Kelly Kim of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

MiCA finally translated (and approved!) by EU

The Markets in Cryptoassets Regulation ([MiCA](#)) was formally ratified and adopted by the European Union on 20 April 2023. The full text of MiCA was [approved by the European Commission in October](#), but required several months for translation before being formally approved by the European Parliament in an overwhelming 517-38 vote yesterday.

In passing MiCA, the EU has become the first major jurisdiction to pass a comprehensive regulatory framework for crypto assets. Its main provisions are expected to come into force in mid to late 2024 after publication in the EU's official journal. MiCA will apply across the EU directly without the need for national implementation laws.

MiCA establishes requirements for a range of cryptoasset service providers and issuers, in relation to initial token offerings, stablecoin issuers, licensing of crypto asset service providers and market conduct. The regulation covers a wide variety of asset-referenced tokens, electronic money tokens and utility tokens. However, it does not extend to cover certain non-fungible tokens, security tokens and DeFi.

MiCA was developed as part of a broader regulatory effort, which involves initiatives including the Digital Operational Resilience Act, the DLT Pilot Regime and the Transfer of Funds Regulation which includes [broader reforms in relation to AML/CTF](#) and was also adopted in a 529-29 vote yesterday.

The European Commission's Mairead McGuinness described the vote as a "world first" for crypto rules.

We're protecting consumers and safeguarding financial stability and market integrity

Lawmaker, Stefan Berger, who led negotiations on the law, said in a press release:

This puts the EU at the forefront of the token economy... This regulation brings a competitive advantage for the EU. The European crypto-asset industry has regulatory clarity that does not exist in countries like the US.

While it will still be some time before MiCA comes into force, European businesses can now start preparing for a post-MiCA future with a clearer understanding of the regulations that will apply to crypto-asset service providers in Europe. This is likely to create a competitive advantage for Europe in attracting digital asset businesses. While Europe has won the race to adopt formal regulations for cryptoassets, there remains scope for other jurisdictions to catch up given the

considerable time period before formal implementation.

Mastercard Launches Music Pass NFTs

Mastercard has announced the [launch](#) of their limited-edition Music Pass non-fungible tokens (NFT) as part of its Artist Accelerator program. The NFT project has been developed in collaboration with the Layer 2 scaling protocol Polygon and will support rising Web3 musicians and artists to boost their careers. The company announced further details about the program in a [press release](#), explaining:

Mastercard Artist Accelerator program [is a] Web3 platform that gives [the NFT holders] free access to educational materials, unique AI tools through our collaborations, and Priceless experiences to boost creativity for music artists.

This marks the second collaboration NFT project offered by Mastercard since 2022 when it joined hands with Moonpay, Nifty Gateway, The Sandbox, and Immutable X among others to create NFTs for their cardholders. Mastercard also previously provided payment solutions to enable Coinbase users to purchase NFTs via Mastercard cards, gaining status as one of the most active financial services companies to be involved in Web3.

Mastercard's chief marketing and communications officer affirmed the company's vision in blockchain and digital assets:

As a company, we hope to help people and partners around the world better understand and trust how blockchain and digital assets are used – and how our technology can support the ecosystem. We also believe that Web3 can be a powerful tool in connecting people and building communities around shared universal passions.

Mastercard previously demonstrated their support for the music industry through sponsorships with the Grammy Awards and Brit Awards, but this initiative is the company's first attempt at combining music with NFTs. Following [Nike's first NFT drop on its .SWOOSH NFT platform](#), Mastercard's announcement indicates that interest in Web3 remains strong among major institutions seeking to engage customers in new and unique ways. The limited edition Mastercard Music Pass NFT can be collected until the end of April.

Swish for .SWOOSH as Nike drop digital sneaker NFT collection

Nike is poised to [launch a new line of digital sneakers](#) exclusively on .SWOOSH, marking a significant move into the virtual footwear space. The recently-launched [.SWOOSH platform](#) will host the collectible non-fungible tokens (NFTs) and enable users to trade NFTs, create their own collections and earn royalties.

The NFT sneaker, Our Force 1 (OF1) sports the iconic Air Force 1 design. Nike will be airdropping "posters" to select .SWOOSH users allowing them early access to the May 8 sale before the collection opens to the public on May 10.

Users can purchase either the "Classic Remix" or the "New Wave" box, each corresponding to different designs. To commemorate the year that the first Air Force 1 sneaker was released, each box will be priced at \$19.82.

Each "box" will contain an NFT with a 3D paired file that can be traded and used or worn in video games and other immersive experiences. Nike has said the broader utility of .SWOOSH may extend to allowing users to create their own collections, earn royalties and access physical products and experiences.

In a press release the general manager of Nike Virtual Studios Ron Faris commented on the new era for Nike products:

The OF1 collection shows how Nike will continue to innovate at the intersection of play and culture for the future of sports... .SWOOSH is the marketplace of the future

The .SWOOSH platform is still in a closed beta for testing and trials although prospective users can register for membership online. The NFT collection is expected to debut on the Polygon layer 2 blockchain, which is an Ethereum scaling solution. Unfortunately for virtual sneaker freaks, .SWOOSH is not currently supported in Australia.

AML/CTF regime set for a shake up

The Australian Government has announced a consultation to reform Australia's anti-money laundering and counter-

terrorism financing (AML/CTF) regime following the Senate's report released in March on the '[The adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing \(AML/CTF\) regime](#)' (the **Report**).

In a [press release](#), Australia's Attorney-General, the Hon Mark Dreyfus stated that the AML/CTF regime must be updated to respond to the changing threat environment and evolving international standards.

Significant regulatory gaps and vulnerabilities have made Australia an increasingly attractive destination for laundering illicit funds.

According to an [overview released by the Attorney-General's Department](#), the proposed reforms will comprise two parts:

1. Reforms that will simplify and modernise the operation of the existing regime.
2. Reforms to extend the AML/CTF regime to high-risk professions, including lawyers, accountants, trust and company search providers and other so-called tranche-two entities.

The [Consultation Paper](#) also considers potential reforms in relation to the cryptocurrency industry building on Financial Action Task Force (**FATF**) guidance .

Crypto-assets such as digital currencies have become established as part of the global financial landscape. The AML/CTF regime must be reformed to respond to the risks in this established sector.

According the paper, the proposed reforms could expand the AML/CTF regulation of digital currencies to cover the following services in line with FATF recommendations:

- exchanges between one or more other forms of digital currency;
- transfers of digital currency on behalf of a customer
- safekeeping or administration of digital currency, and
- provision of financial services related to an issuer's offer and/or sale of a digital currency (e.g. Initial Coin Offerings where start-up companies sell investors a new digital token or cryptocurrency to raise money for projects).

Interestingly, DeFi platforms do not appear to be in scope for reform at this stage, noting that this has been a topic of considerable discussion in other jurisdictions following new guidance released by FATF in 2021.

The Consultation Paper poses two broad questions for consideration in relation to cryptocurrencies:

1. What are the benefits and challenges of expanding the AML/CTF obligations to a broader range of digital currency-related services?
2. How can definitions under the Act be amended to integrate digital currency activity in payment-related obligations, such as activities associated with credit, debit and stored value cards and general transfers?

The paper expressly notes that the proposed reforms in relation to the AML/CTF regulation of digital currencies are intended to align with any reforms in relation to the crypto asset services sector by Treasury to minimize duplication.

According to the Attorney-General's press release, Australia is a founding member of the FATF but has failed to comply with 16 out of 40 FATF standards. Additionally, the Australian Institute of Criminology estimates that serious and organised crime cost the Australian community up to AUD\$60 billion in 2020-21. The Government's proposed reform package is in part a response to these matters and an anticipated FATF review 5th Mutual Evaluation of Australia's AML/CTF regime which could see Australia placed on FATF's grey list.

This consultation is the first step in a two part consultation process and will close on 16 June 2023. You can make a submission on the Attorney-General Department's website [here](#). The second consultation is expected to take into account industry feedback and presumably will include more concrete proposals for reform.

The AML/CTF changes proposed in the consultation paper have been long anticipated and would bring Australia into line with reforms which have already been implemented or are in the process of being implemented in other jurisdictions such as the UK and EU. Experience in other jurisdictions suggests that any legislative proposals in relation to digital currencies will need to be carefully examined to ensure that they are fit for purpose while seeking to leverage the transparency benefits offered by blockchain technology to address AML/CTF risks.