

2024 – The year of MiCA

Global webcast

13 March 2024

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Today's Speakers

Moderator



Paul Brody

EY Global Blockchain Leader

Speakers



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MiCA Lead at Kraken Digital
Asset Exchange

Agenda

MiCA regulation – Deep dive 04

- ▶ Scope of MiCA
- ▶ Token issuers and Crypto Asset Service Providers (CASPs)
- ▶ Industry insights – benchmarking MiCA progress

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MiCA regulation – Deep dive

- ▶ A hands-on guide to the new European Union (EU) crypto regulation
- ▶ Understanding the scope and timeline of MiCA

What is MiCA?

01

Uniform EU Regulation
for Crypto Assets

02

MiCA could be a **golden ticket**
to the EU market

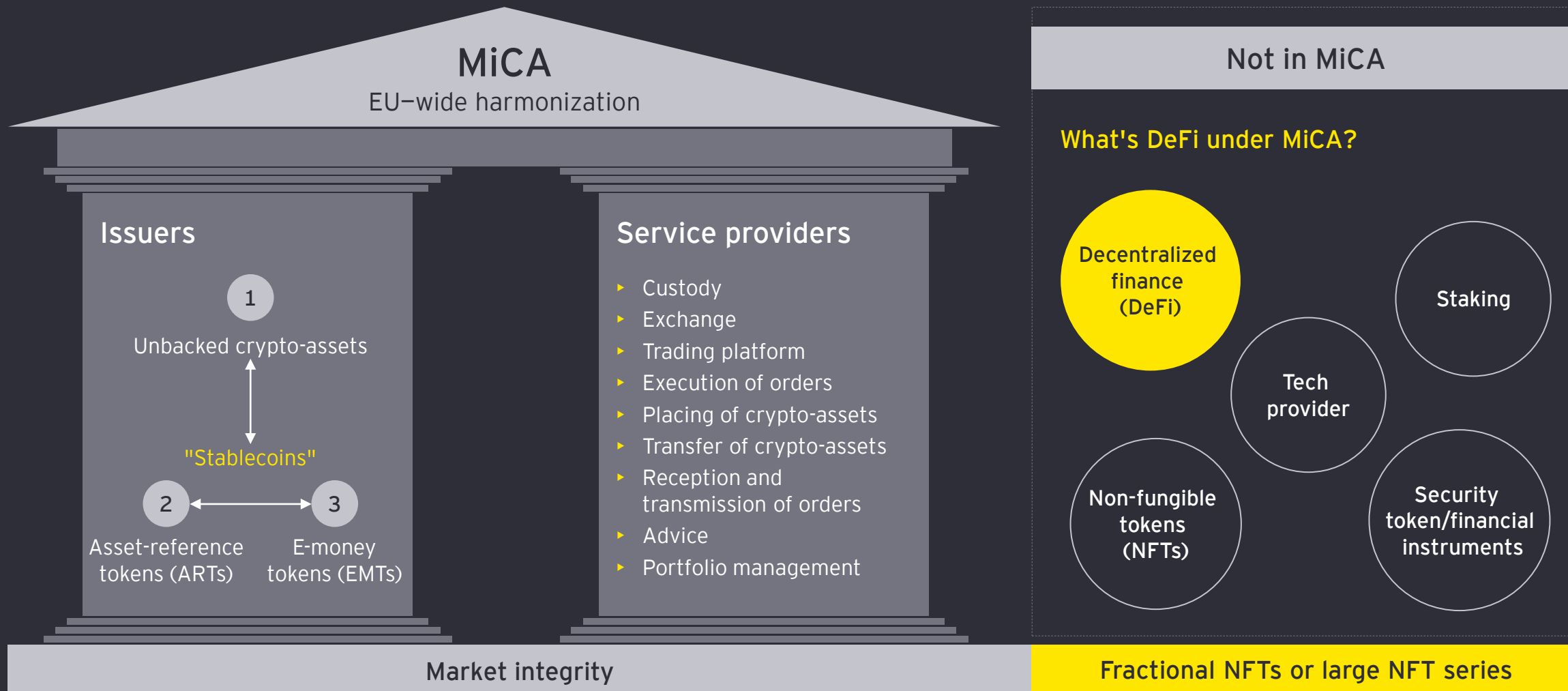
03

Granting access to a 450m+
people market



Scope of MiCA

Understanding whether your products or services are covered by MiCA



Geographical scope of MiCA – are non-EU firms covered by MiCA?

- ▶ Non-EU, non-licensed service providers **may not infiltrate the EU market with their service offerings.**
- ▶ **Reverse solicitation:** The provision of CASP services within the EU for non-EU firms is only allowed within very strict exemptions.
- ▶ The non-EU firm is only allowed to provide its services:
 - ▶ If an EU client at its **own exclusive initiative**
 - ▶ **Requests the provision** of the service
- ▶ Non-EU service providers are prohibited from having a public appearance within the EU market:
 - ▶ **No marketing or promotional activities**, no website in an official EU language etc.
- ▶ Expectations are that authorities will take a very strict approach:
 - ▶ Goal: **Protect the EU single market and EU clients**

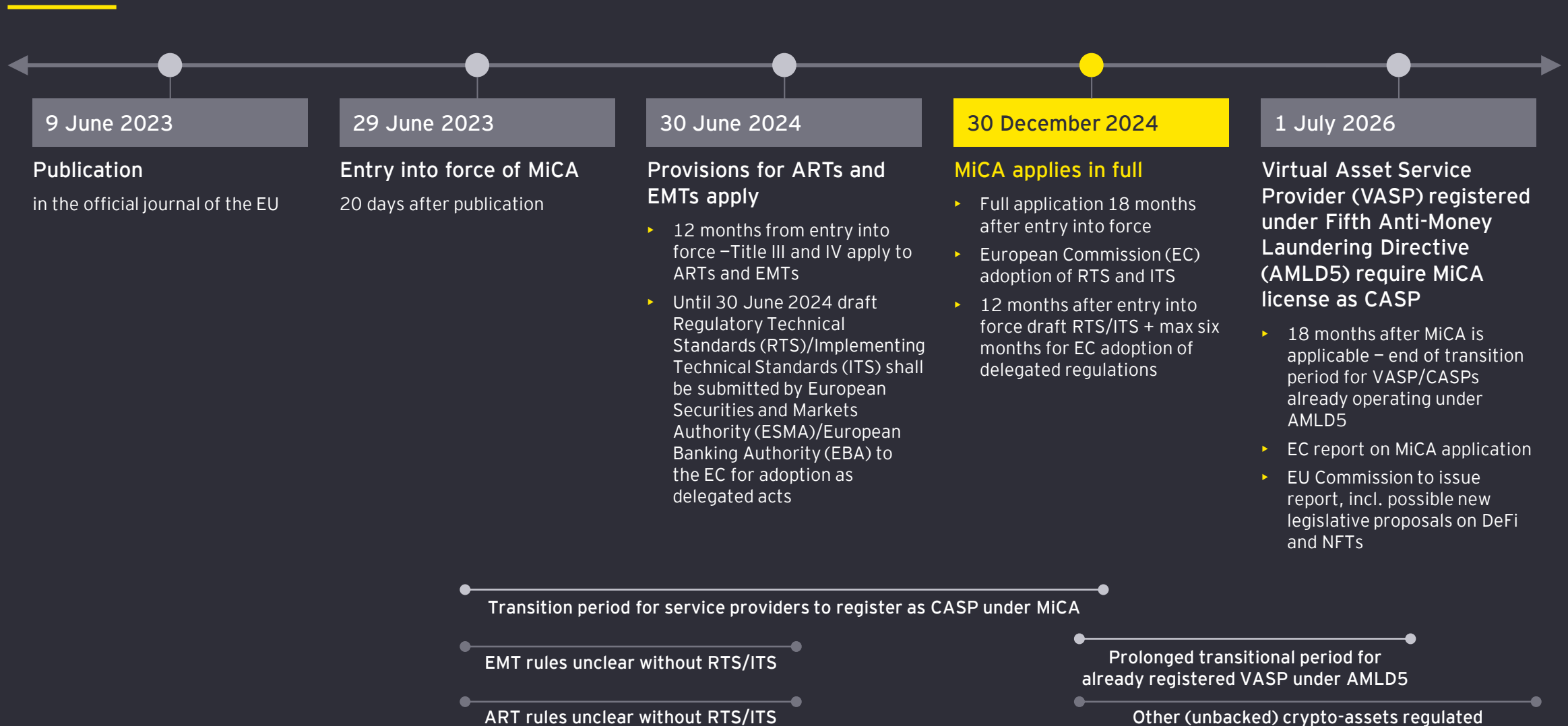
Global crypto firms will have to start preparing for MiCA right now

EU single market

Non-licensed third-country service provider



Understanding MiCA's timeline





MiCA regulation – Deep dive

- ▶ Token issuers and CASPs

Token issuer – understand what you will be offering

MiCA regulates crypto-assets through their issuers (or offerors);
A natural or legal person, or undertaking, or the issuer, which offers crypto-assets to the public.

1. "Other" crypto-assets

General, **catch-all** category

Utility tokens

- ▶ Only intended to provide access to a good or service supplied by the issuer

↑
Crypto-asset – representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology.

Example: Bitcoin | sETH

2. Asset-reference tokens

Maintain a stable value by referencing a **(basket of) assets** (several fiat currencies, commodities, crypto-assets)

Example: Dai | PAX Gold

3. E-money tokens

Maintain a stable value by referencing only **one fiat currency**

Example: Tether USDt | USD Coin

Be mindful of your potential obligations!

- ▶ Licensing obligation?
- ▶ White paper
- ▶ Compliant marketing material
- ▶ Own funds
- ▶ Reserve assets
- ▶ Internal governance
- ▶ Reporting
- ▶ Disclosure liability

Depending on EU presence there are different ways to a MiCA license

Overview of CASP processes

"Standard" authorization process

- ▶ Submission of a comprehensive application for authorization
- ▶ Includes details of the company, internal policies, compliance of management personnel, etc.
- ▶ Extensive review process by the authority
 - ▶ May also include enquiries with equivalent authorities of other Member States (MS) or AML/CFT authorities

Simplified authorization for VASP

- ▶ In the context of a registered VASP (i.e., service providers operating under the current regulatory AMLD5 regime), MiCA provides MS with the option to provide them with
 - ▶ A potentially **simplified authorization process**
 - ▶ An **extended transitional period** of an additional 18 months (i.e., a registered VASP can operate until the end of Q2 2026 under their VASP registration and can better prepare for MiCA)

Notification according to Art. 60

- ▶ MiCA provides for simplifications for service providers in the regulated financial market
- ▶ No extensive authorization procedures but abbreviated notification process
 - ▶ Possibility to refer to information previously submitted to the authority
- ▶ **Can be leveraged as, e.g., credit institution or investment firm**





MiCA regulation – Deep dive

- ▶ Industry insights – benchmarking of MiCA process

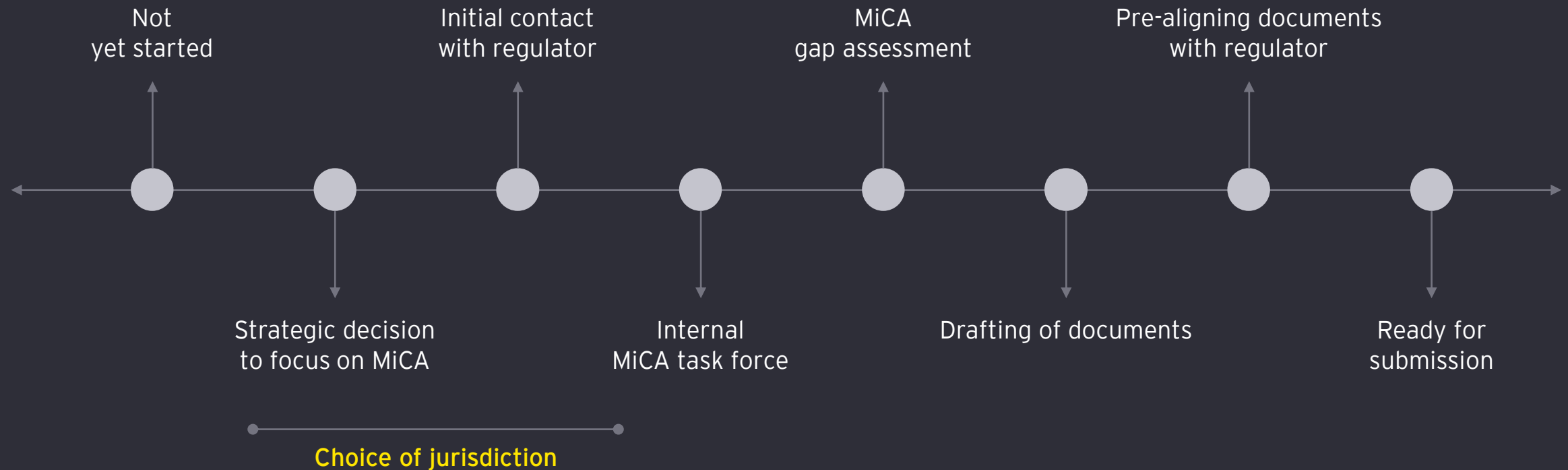
It's not only about MiCA | Other key considerations on your way to a MiCA license

Benchmarking market considerations

VASP registration vs. going straight for MiCA	Choice of jurisdiction (usual "suspects" (i) Austria, (ii) Estonia (iii) France, (iv) Ireland, (v) Malta, (vi) Netherlands etc.)	Tax considerations
Possibility to have a simplified procedure	Reputation of the jurisdiction (esp. in terms of AML compliance)	Possibility to obtain tax rulings
First interactions with regulator	Expertise of the competent regulator	Structuring options
Greenfield approach	Number of applicants that confirmed to do MiCA applications in a country compared to staff size	Personal tax situation
	Potential for aligning with the regulator and the assurance of such alignment	
	Local Market Dynamics (e.g., Germany (D), Austria (A), and Switzerland (CH) (DACH) region etc.)	
	Access to talent pool	

Mapping your personal progress to a MiCA license

Benchmarking progress on MiCA





MiCA regulation hot topics – actions you should be taking now

Hot topics – actions you should be taking now

MiCA's challenges, opportunities and key topics to take home



01

Explore and build new, innovative products



02

Mapping your current operations against MiCA requirements



03

Issuer, offeror and CASP: identify your MiCA role



04

Identify white paper obligations as issuer/offeror and CASP



05

Proper insolvency proofing of custody for MiCA compliance



06

Early aligning with the regulator to kick-off your application process the right way

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Americas (22)		Asia-Pacific (10)
Argentina	El Salvador	Australia
Bahamas	Guatemala	China Mainland
Bermuda	Honduras	Hong Kong
Bolivia	Mexico	Indonesia
Brazil	Nicaragua	Japan
Canada	Panama	New Zealand
Cayman Islands	Paraguay	Singapore
Chile	Peru	Taiwan
Colombia	US*	Thailand
Costa Rica	Venezuela	Vietnam
Dominican Rep		
Ecuador		

EMEIA (57)			
Albania	Czech Republic	Ivory Coast	Saudi Arabia
Armenia	Denmark	Kazakhstan	Senegal
Austria	DR Congo	Kenya	Serbia
Azerbaijan	Equatorial Guinea	Latvia	Slovakia
Belgium	Estonia	Lithuania	Slovenia
Benin	Finland	Luxembourg	Spain
Bosnia and Herz	France	North Macedonia	Sweden
Bulgaria	Gabon	Mali	Switzerland
Burkina Faso	Georgia	Morocco	Turkey
Cameroon	Germany	Netherlands	Ukraine
Central African R.	Greece	Niger	UAE
Chad	Guinea Conakry	Norway	UK
Congo-Brazzaville	Hungary	Poland	
Croatia	Ireland	Portugal	
Cyprus	Italy	Romania	

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Panel Session

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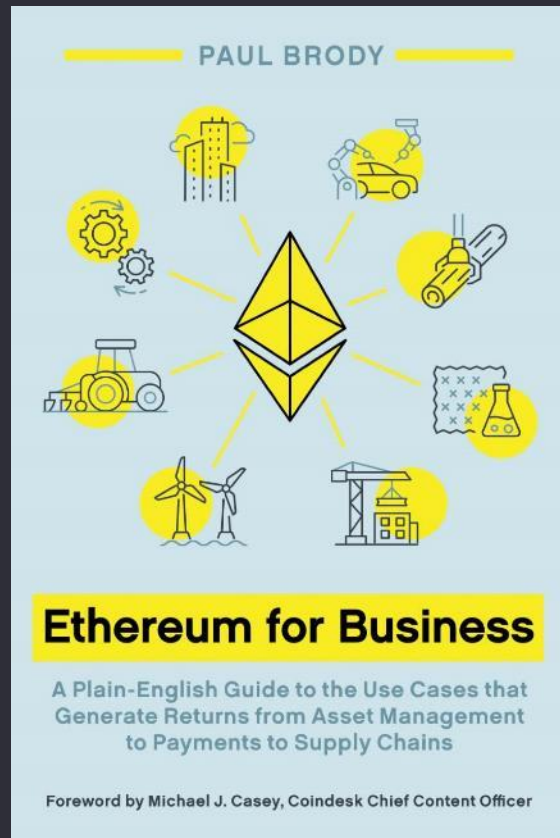
Assistant General Counsel,
MiCA Lead at Kraken Digital
Asset Exchange



Q&A

Ethereum

For an introduction to Ethereum, business applications on Ethereum and advanced topics with detailed case examples, check out my new book.



Cover image

“

Paul has been working on enterprise use cases for blockchain since I first met him back in 2014. If you want to read about how to apply Ethereum for business usage, you won't find a source with more first-hand experience.

– Vitalik Buterin

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Fortune

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Would you like an NFT? We've been calling these "Proof of Paul"



Put in your wallet address or Ethereum Name Service (ENS) and we will send you an NFT on the Polygon PoS Mainnet from blockchain.ey.com

<https://nftcard.blockchain.ey.com/pbrody>

EY Global Blockchain Summit 2024



How can regulation help release the flow of blockchain innovation?

■ ■ ■ ■
The better the question.
The better the answer.
The better the world works.



EY Global Blockchain Summit 2024

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[EY Blockchain Global Summit 2024](#)

For any questions on the upcoming 2024 Summit, please contact

[Kristie Burns](#) or [Greg Birmingham](#)

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Conference Registration QR Code





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