



Confident Solutions

**Impact of and lessons
from licensing of
tokenization stakeholders**



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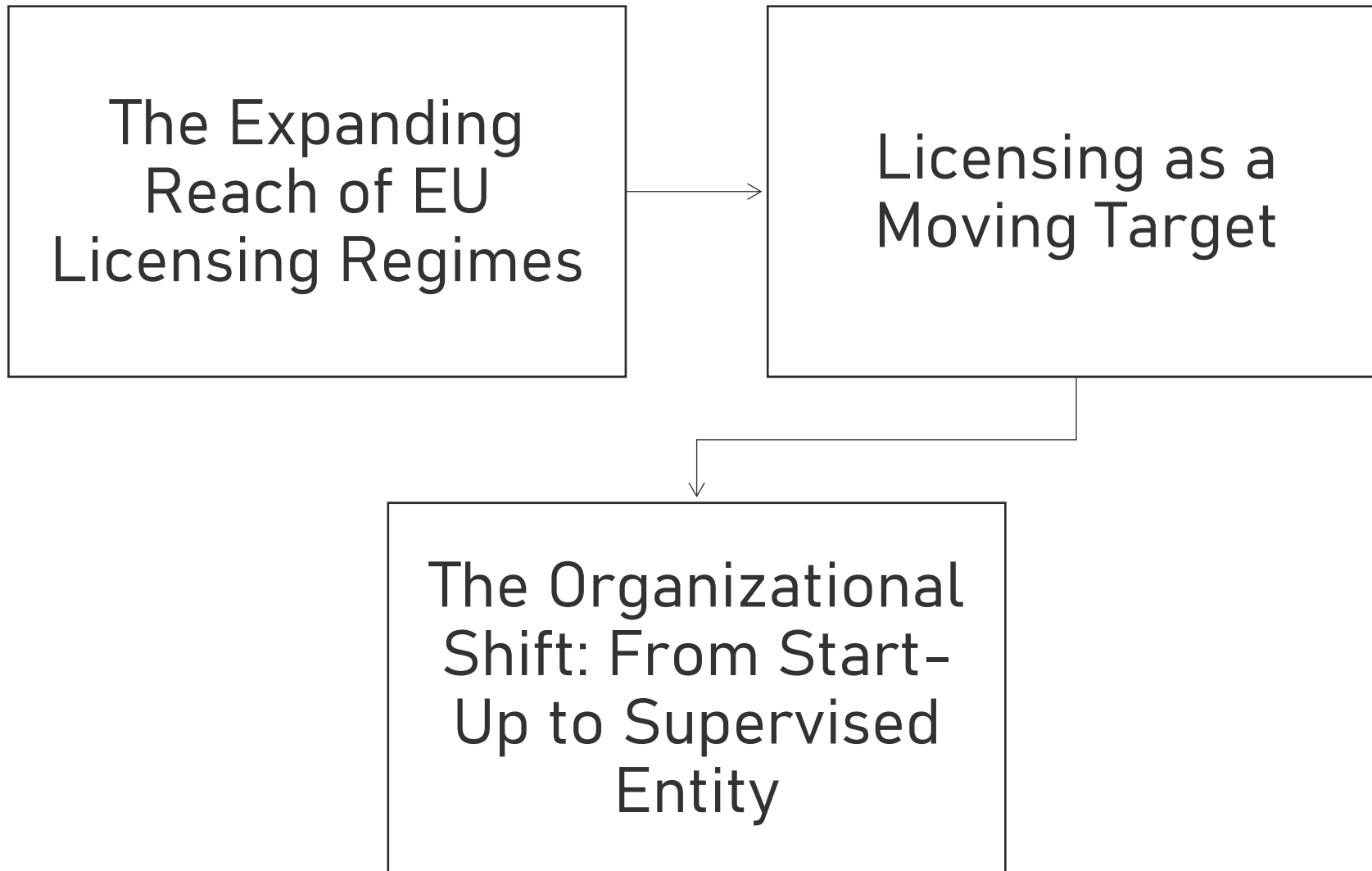
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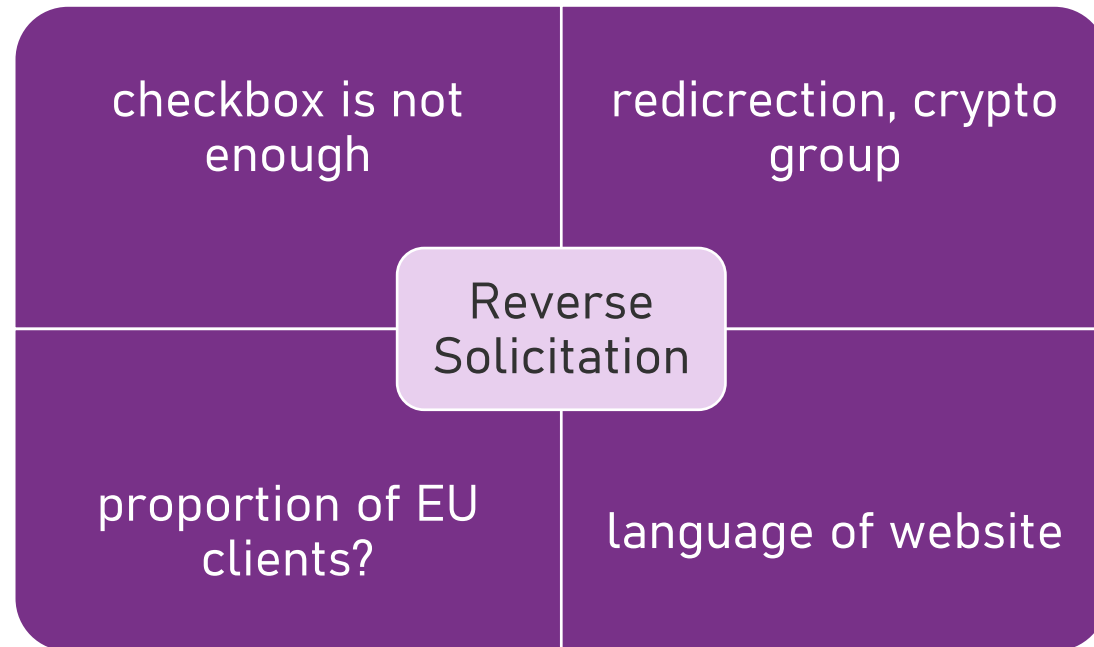
SGH, Warsaw, 23.05.2025 r.

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Agenda



The Expanding Reach of EU Licensing Regimes – Reverse Solicitation



The FSMA has noted that Binance is offering and providing exchange services in Belgium between virtual currencies and legal currencies, as well as custody wallet services, from countries that are not members of the European Economic Area. **The FSMA has therefore ordered Binance to cease, with immediate effect, offering or providing any and all such services in Belgium.**

De Nederlandsche Bank (DNB) imposed an administrative fine of €3,325,000 on Coinbase Europe Limited (Coinbase). **The fine was imposed because Coinbase provided crypto services in the Netherlands in the past without registration with DNB, which is in non-compliance with the law.**

The Expanding Reach of EU Licensing Regimes – delisting of stablecoins

ESMA_QA_2404

Subject Matter: Scope of public offering



17 January 2025
ESMA75-223375936-6099

Public Statement

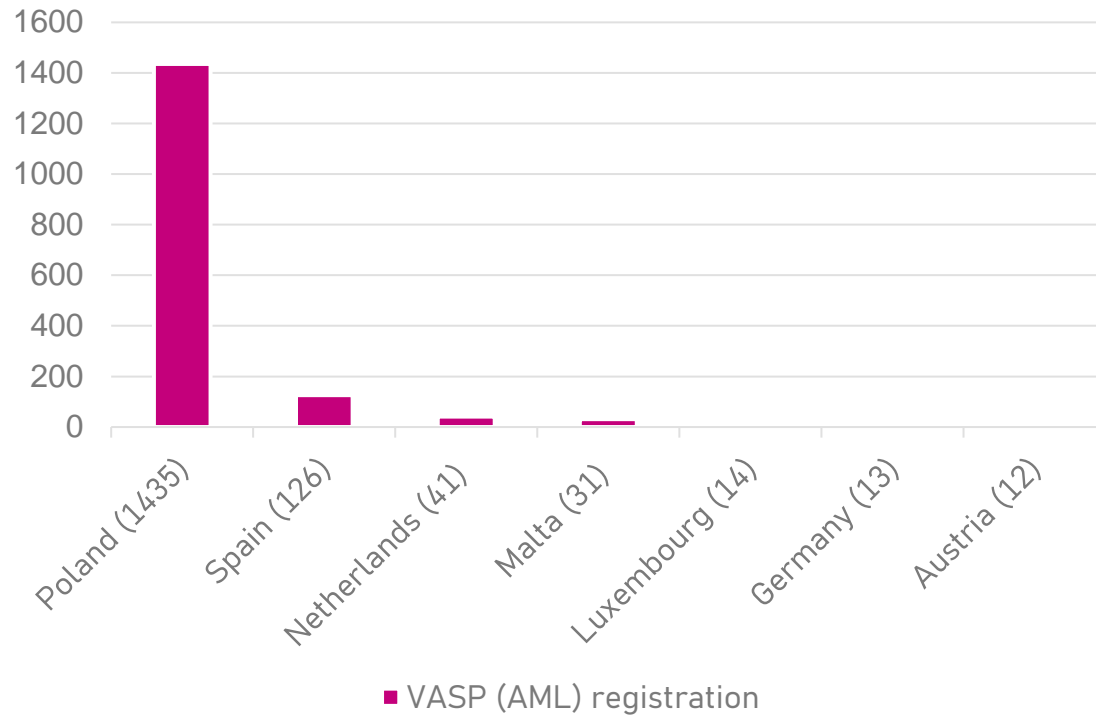
On the provision of certain crypto-asset services in relation to non-MiCA compliant ARTs and EMTs

- **Offering to public or seeking admission to trading of ARTs or EMTs is only possible if the issuer of such tokens is authorised under MiCA.**
- Providing certain crypto-asset services amounts to an offering to public or seeking admission to trading. In particular, **operators of trading platforms for crypto-assets that list ARTs or EMTs for which the issuer has not been authorised under MiCA are to be considered as persons seeking admission** to trading on the own initiative of the operator under Articles 16(1) or Article 48(1).
- Other crypto-asset services could also constitute an offering to the public, which requires a case-by-case assessment. For instance, providers of crypto-asset services engaged in exchange services, reception and transmission of orders or execution services could be regarded as making an offer where they promote or advertise, as part of these services, an ART or EMT.

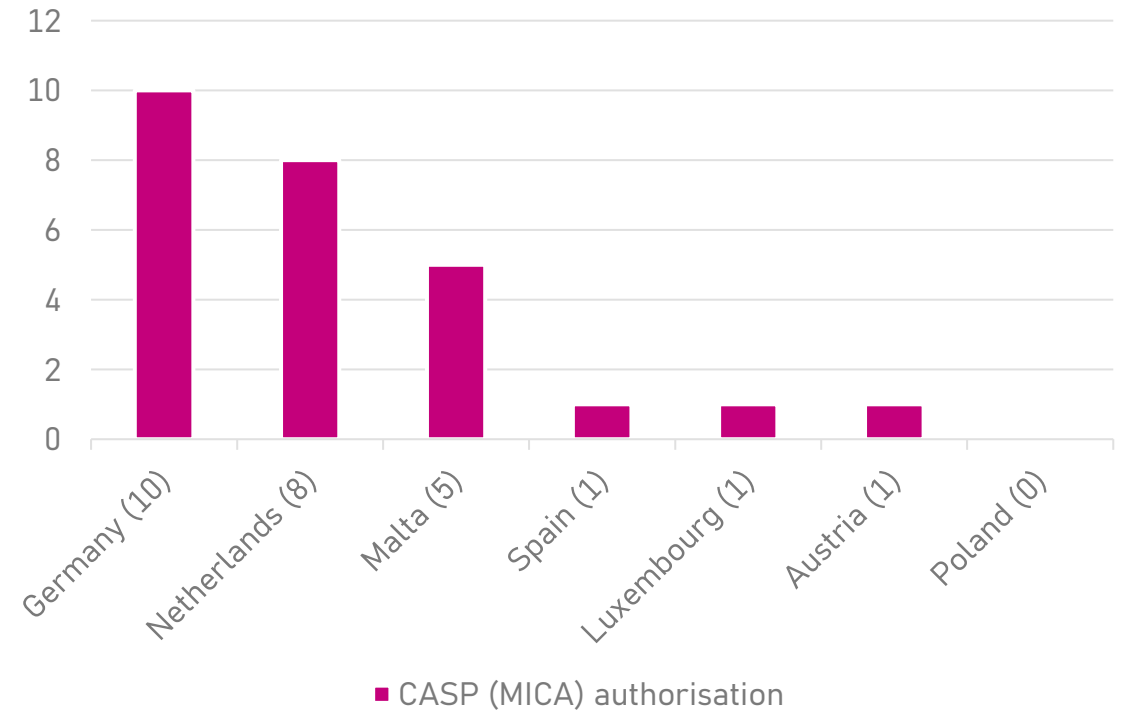
- Neither ESMA nor NCAs possess any formal power to disapply a directly applicable EU legal text. **Therefore, any change to the application of the EU rules would need to be implemented through EU legislation.**
- **However, ESMA notes that sudden actions to align with MiCA, as clarified in the European Commission's guidance could potentially lead to disorderly crypto-assets markets.** Consequently, to mitigate potential disruptions and ensure a smooth and orderly transition, **NCAs should ensure compliance by CASPs regarding non-compliant ARTs or EMTs as soon as possible and no later than the end of Q1 2025.**
- The restrictions on the existing services are expected to be completed by the end of January 2025. To allow EU investors to liquidate or convert their position in non-MiCA compliant ARTs and EMTs, concerned CASPs may, however, maintain crypto-asset services for these products on a “sell only” basis for a longer period (until the end of Q1 2025).

Licensing as a Moving Target – Persistent Regulatory Arbitrage

VASP (AML) registration



CASP (MICA) authorisation



Licensing as a Moving Target – Uncertain Compliance Realities

OPINION OF ADVOCATE GENERAL

BOBEK

delivered on 15 April 2021 Case C-911/19
Fédération bancaire française (FBF)

As a line from *Game of Thrones* has it, '**what is dead may never die**'. Thus, perhaps with the exception of White Walkers, what is dead also cannot be killed. However, can something that has never been alive (or rather never came into existence as a binding EU-law act) be annulled (or rather declared invalid) by the Court of Justice on a preliminary ruling? Alternatively, can the Court provide (binding) interpretation of a non-binding EU measure?

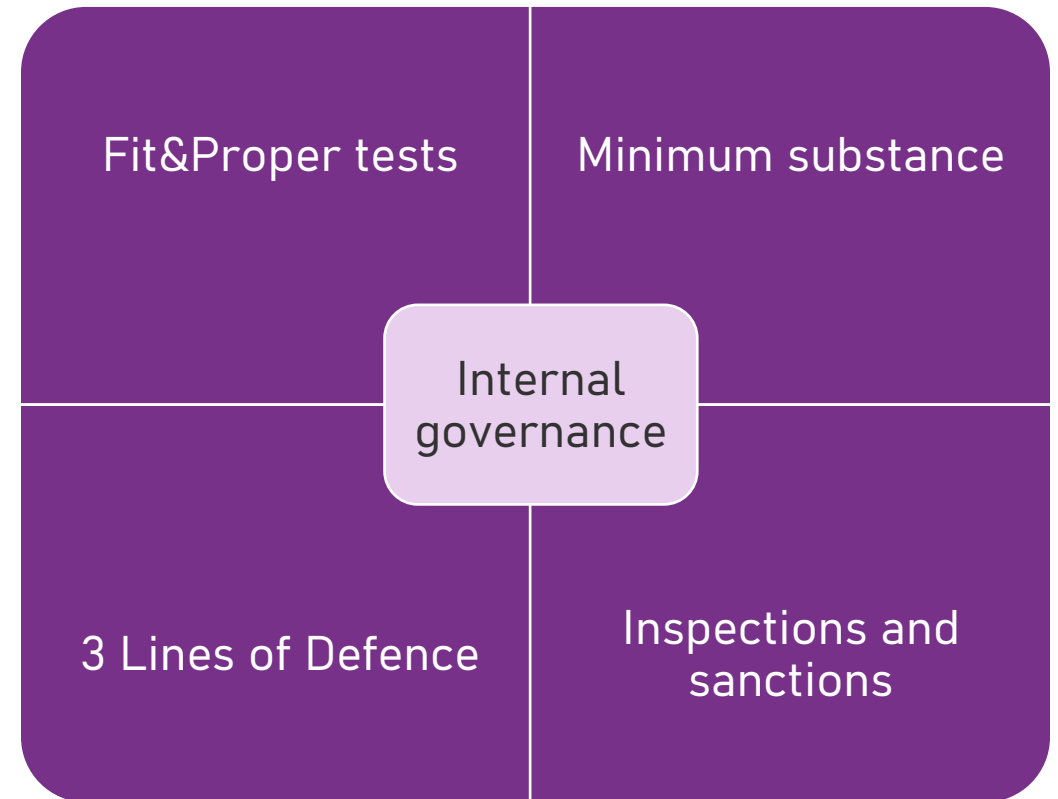
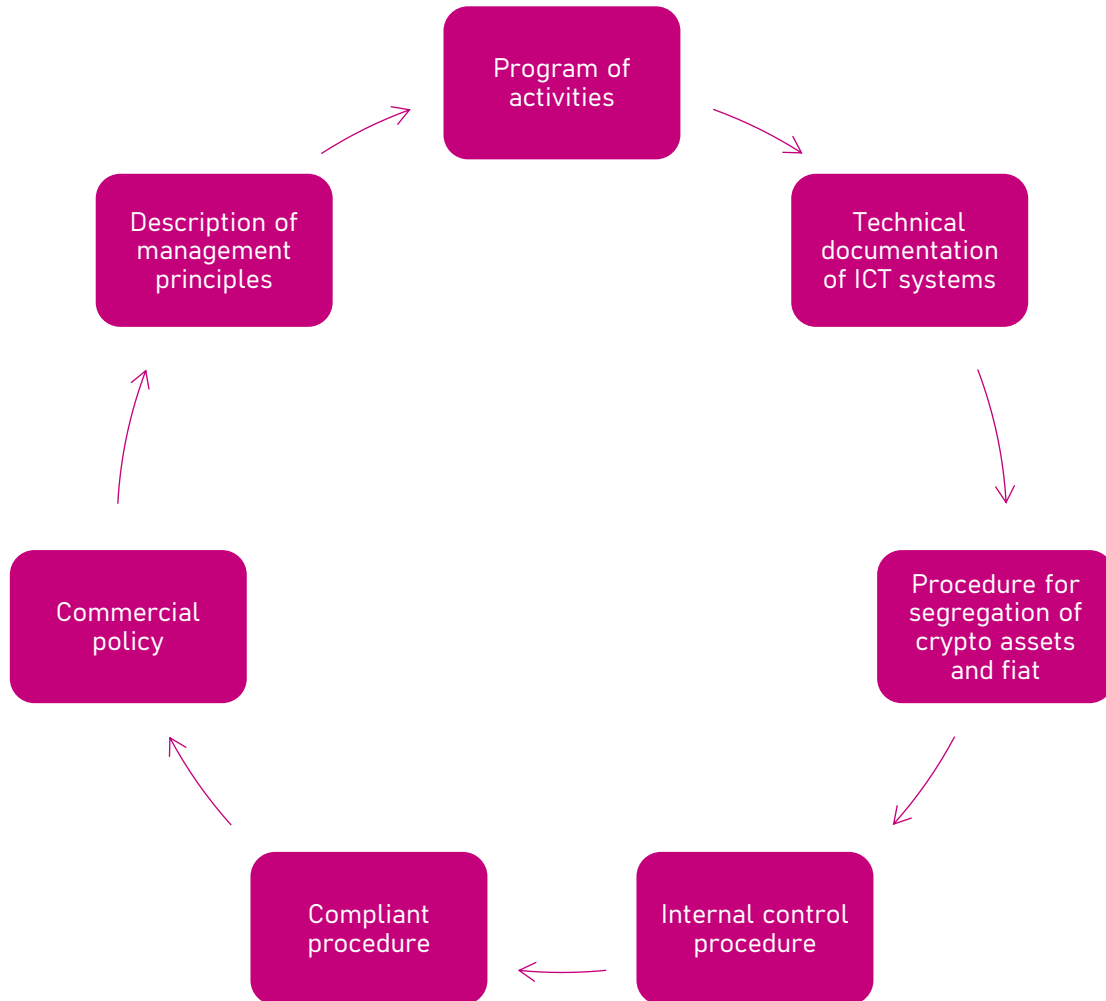
PSD2-MiCA
interplay

Transfer of
Funds and
CA

Stablecoins
offering

Guidelines,
briefings,
Dear CEO
letters

The Organizational Shift: From Start-Up to Supervised Entity





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Thanks for your attention!



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