

L46: Swiss FINMA and EU MiCA

Module G: Regulation & Future

Blockchain & Cryptocurrency Course

December 2025

- Understand Swiss FINMA's principles-based approach to crypto regulation
- Analyze token classification frameworks (FINMA vs MiCA)
- Evaluate EU MiCA as comprehensive crypto-asset regulation
- Compare stablecoin requirements between frameworks
- Assess CASP licensing and compliance requirements
- Understand real-world implementation challenges (2024-2025)

Why Focus on Switzerland and EU?

Switzerland

- Crypto Valley (Zug): 1,000+ blockchain companies
- Clear legal framework since 2019
- Home to Ethereum, Cardano, Tezos foundations
- Principles-based, flexible approach

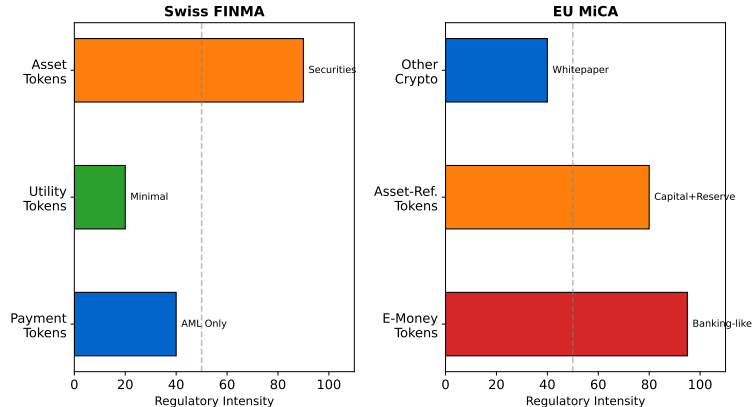
EU MiCA

- First comprehensive crypto framework
- 27 member states (450M people)
- Template for other jurisdictions
- Rules-based, detailed requirements

Key Contrast: Principles-based (Switzerland) vs rules-based (EU)

Token Classification Comparison

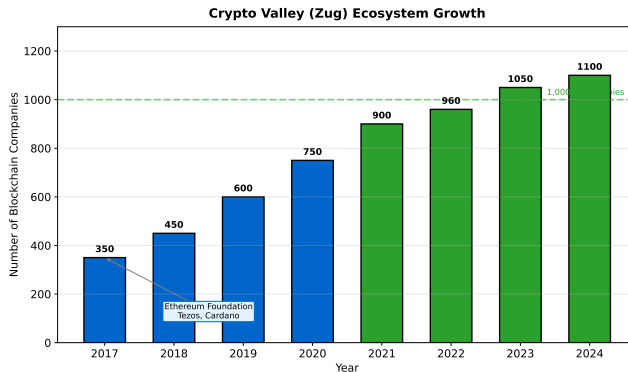
Token Classification Frameworks



Economic function determines regulatory treatment, not technology

- **Three Token Categories (not mutually exclusive):**
 - ① **Payment Tokens:** Means of payment, transfer of value
 - Examples: Bitcoin, Litecoin
 - Regulation: AML only (not securities law)
 - ② **Utility Tokens:** Access to application or service
 - Examples: Filecoin, Golem
 - Regulation: Minimal (if truly utility)
 - ③ **Asset Tokens:** Represent assets, claims, or equity
 - Examples: Tokenized securities, equity tokens
 - Regulation: Securities law (prospectus, licensing)
- **Hybrid Tokens:** Can have multiple characteristics

- **Purpose:** Adapt Swiss law to blockchain technology
- **Key Innovations:**
 - ① **DLT Securities:** Legal recognition of tokenized securities
 - Rights register maintained on blockchain
 - Same legal status as traditional securities
 - ② **DLT Trading Facilities:** New license category
 - Lower barriers than traditional exchanges
 - Capital: CHF 500,000 minimum
 - ③ **Crypto Asset Segregation in Bankruptcy**
 - Customer assets segregated from estate
- **Impact:** Legal certainty for tokenization, institutional custody



Regulatory clarity attracted global blockchain companies to Switzerland

- **MiCA (Markets in Crypto-Assets Regulation):** EU-wide framework
- **Timeline:**
 - Proposed: September 2020
 - Approved: April 2023
 - Full implementation: December 30, 2024
- **Objectives:**
 - ① Legal certainty for crypto assets
 - ② Consumer and investor protection
 - ③ Financial stability safeguards
 - ④ Support innovation and competition
- **Scope:** Crypto-assets, issuers, CASPs
- **Exclusions:** NFTs (unless fractionalized), CBDCs

① E-Money Tokens (EMTs):

- Stable value referencing single fiat currency
- Examples: USDC, USDT
- Regulation: Strictest (banking-like)

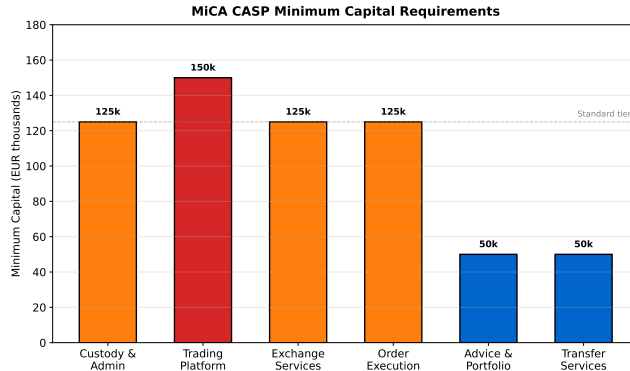
② Asset-Referenced Tokens (ARTs):

- Stable value referencing basket/commodities
- Regulation: Capital, reserve, governance

③ Other Crypto-Assets:

- All other tokens (BTC, ETH, utility)
- Regulation: Disclosure (white paper)

MiCA CASP Capital Requirements

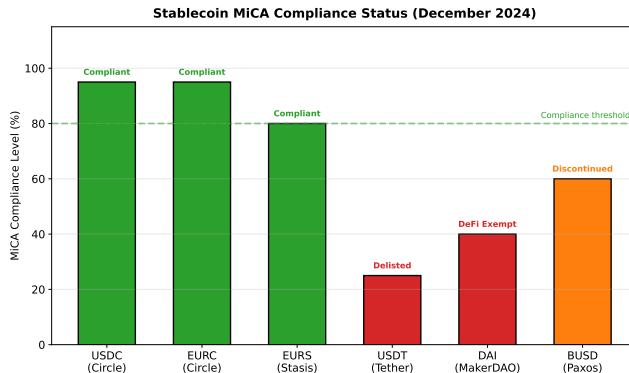


Single authorization valid across all 27 EU member states (passporting)

- **CASP Services** (require authorization):
 - ① Custody and administration of crypto-assets
 - ② Operation of trading platform
 - ③ Exchange (crypto-fiat, crypto-crypto)
 - ④ Execution of orders on behalf of clients
 - ⑤ Placing of crypto-assets
 - ⑥ Providing advice on crypto-assets
 - ⑦ Portfolio management
 - ⑧ Transfer services
- **Passporting**: Single authorization valid EU-wide
- **Grandfathering**: 18-month transition for existing providers

- **Issuer Authorization:**
 - Must be credit institution or e-money institution
 - CASP license NOT sufficient
- **Reserve Requirements:**
 - 1:1 backing in high-quality liquid assets
 - Segregated from issuer's assets
 - Daily reconciliation
- **Redemption Rights:**
 - Redeem at par value at any time
 - No fees for redemption
- **Significant EMTs:** Enhanced EBA supervision
- **Prohibition:** Interest payments on stablecoins

Stablecoin MiCA Compliance (2024)



USDT delisted from EU exchanges; USDC positioned as MiCA-compliant

- **Circle (USDC):**

- Obtained e-money license in France (July 2024)
- First global stablecoin issuer MiCA-compliant
- USDC and EURC fully authorized

- **Tether (USDT):**

- Did NOT obtain EU e-money license
- Delisted from EU exchanges (December 2024)
- Coinbase Europe, Crypto.com removed USDT

- **Market Impact:**

- USDC gaining EU market share
- Euro stablecoins emerging (EURC, EURS)
- Compliance as competitive advantage

- **Prohibited Conduct:**

- ① **Insider Dealing:**

- Trading on material non-public information
 - Same rules as traditional securities

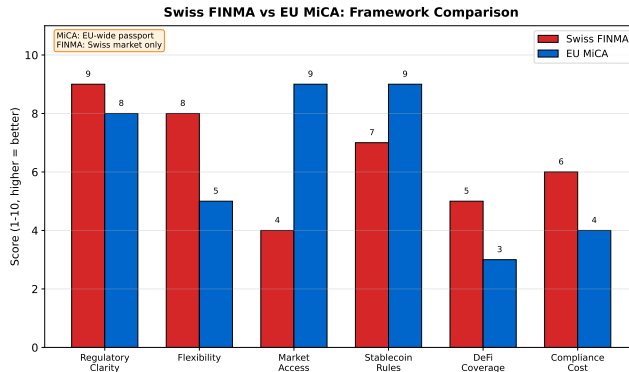
- ② **Market Manipulation:**

- Wash trading, spoofing, layering
 - Pump-and-dump schemes
 - Spreading false information

- ③ **Unlawful Disclosure**

- **Enforcement:** National authorities, criminal penalties

- **Surveillance:** CASPs must monitor and report



Both frameworks provide regulatory clarity; MiCA offers broader market access

Aspect	Switzerland	EU MiCA
Approach	Principles-based	Rules-based
Token Classification	Flexible (3 types)	Rigid (3 types)
Stablecoin Rules	Case-by-case	Banking-like
Market Access	Swiss only	27 EU countries
DeFi Treatment	Unclear	Excluded (for now)
Compliance Cost	Moderate	Higher

Strategy: Swiss firms seeking EU presence for MiCA passport

- **Major Exchanges Seeking Authorization:**

- Binance: Applied in multiple EU jurisdictions
- Kraken: Pursuing licenses in Germany, Ireland
- Coinbase: Leveraging Irish e-money license
- Bitstamp: Already licensed in Luxembourg

- **Bottlenecks:**

- National regulators overwhelmed with applications
- Varying interpretation across member states
- Technical standards still being finalized

- **Preferred Jurisdictions:** Ireland, France, Germany

- **European Commission Review** (expected 2025):
 - DeFi regulation (currently excluded)
 - NFT treatment (fractionalization rules)
 - Staking and lending services
- **Transfer of Funds Regulation (TFR):**
 - Travel Rule for crypto (sender/receiver info)
 - Self-hosted wallet verification above thresholds
- **Technical Standards** (ESMA, EBA):
 - Custody specifications
 - Sustainability disclosures (PoW energy)
- **Global Influence:** MiCA as template for UK, Japan, Singapore

Key Takeaways:

- **Swiss FINMA:** Principles-based, flexible, DLT Act innovation
- **Token classification:** Payment, Utility, Asset (function-based)
- **EU MiCA:** Comprehensive rules-based framework, 27 countries
- **MiCA categories:** EMTs, ARTs, Other crypto-assets
- **Stablecoin regulation:** Banking-like requirements, reserve backing
- **December 2024:** MiCA fully implemented, USDT delisted
- **USDC vs USDT:** Compliance as competitive advantage
- **Crypto Valley:** 1,100+ companies, regulatory clarity advantage
- **Future:** MiCA 2.0 (DeFi, NFTs), Travel Rule enforcement

- ❶ What are the trade-offs between principles-based vs rules-based regulation?
- ❷ Why did Circle succeed in obtaining MiCA compliance while Tether did not?
- ❸ How does the EU passport benefit crypto firms compared to Swiss-only?
- ❹ Should DeFi protocols be included in MiCA 2.0?
- ❺ What makes Crypto Valley attractive despite lacking EU market access?