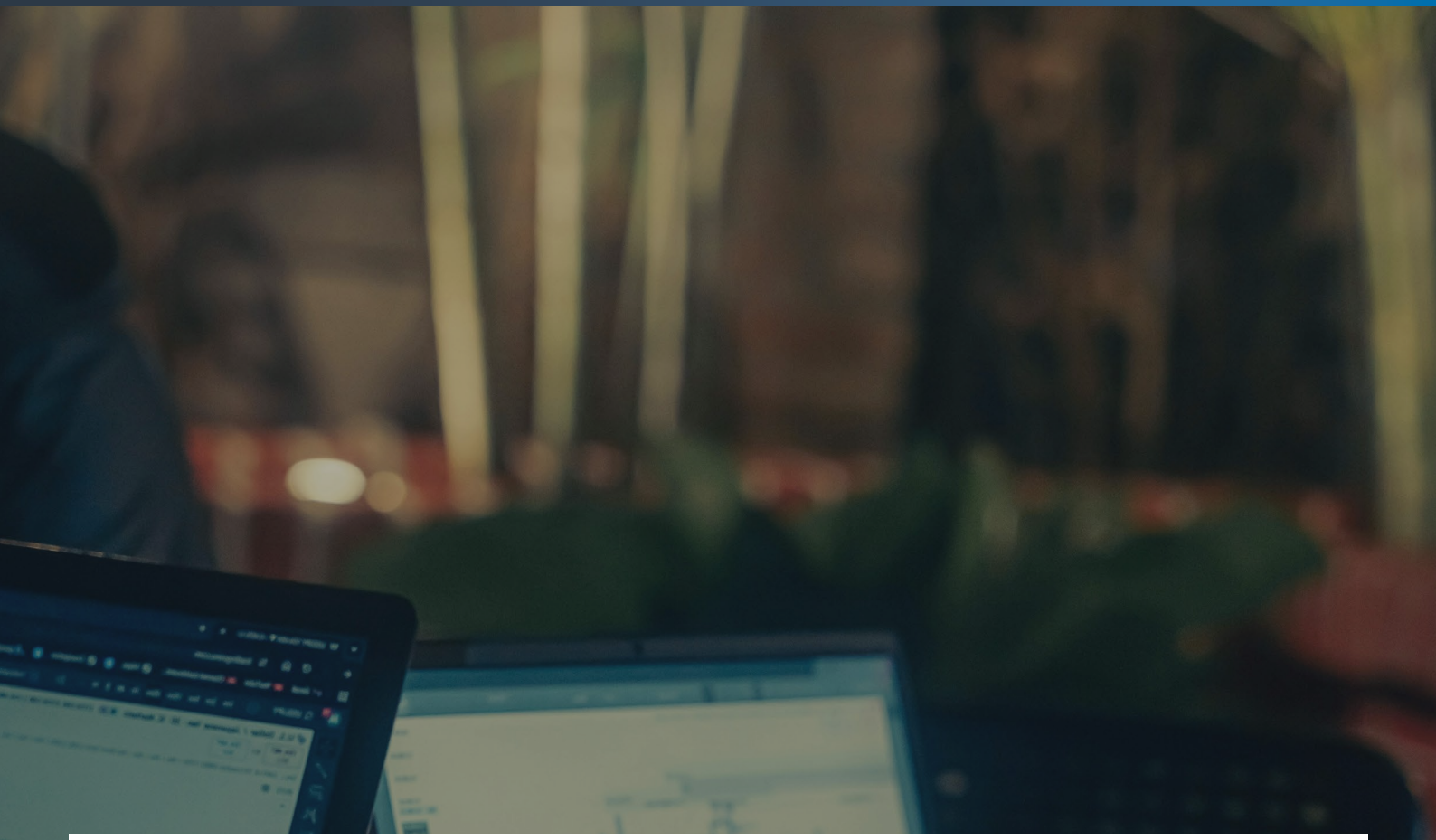
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Cryptocurrency regulation in Italy

the role of exchanges and the challenges of jurisdictional protection

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Europe has taken decisive steps to regulate crypto-assets. Yet a fundamental question remains: **what happens when cryptocurrencies are stolen, ownership is disputed, or assets must be frozen before they disappear?** Regulation (EU) 2023/1114 on Markets in Crypto-Assets (MiCA) has strengthened market oversight, but effective judicial protection still faces serious obstacles.

The challenge lies in the **combination of near-instantaneous blockchain transfers and the cross-border structure of the platforms** holding these assets.

01 *The European regulatory framework and the role of exchanges*

MiCA harmonizes EU rules on the issuance, trading and custody of crypto-assets, imposing authorization, transparency and investor-protection requirements on service providers. In Italy, Legislative Decree No. 129/2024 and related legislation complement this framework, with supervisory responsibilities shared by the Bank of Italy and CONSOB.

Exchanges are central to the market, but not all operate alike. The **distinction between centralized exchanges (CEXs) and decentralized exchanges (DEXs)** is especially **important when legal intervention is required**.

CEXs operate through corporate entities that manage trading and often custody. They may control the private keys needed to transfer assets, while customers' rights depend on contractual terms and applicable law. Many also use omnibus wallets, pooling customers' assets and tracking individual entitlements through internal records.

DEXs, by contrast, generally rely on blockchain protocols and smart contracts, allowing users to retain control of their wallets without a central custodian.

This difference has **immediate legal consequences**: a CEX may be able to freeze an account or block withdrawals; a DEX may have no identifiable intermediary capable of doing so.

The stakes are substantial. Market estimates suggest that, in November 2026, approximately 17% of circulating Bitcoin was held at identified exchange-controlled addresses. Effective **protection of these assets may therefore hinge on cooperation from a relatively small group of global intermediaries**.

02 *The legal complexity of international exchanges*

A familiar exchange brand can conceal a complex network of legally separate companies across jurisdictions. The platform operator, contracting entity, custodian and company with actual technical control may all be different. An Italian or European subsidiary, therefore, may neither hold the customer's crypto-assets nor have the power to comply with an Italian court order.

Before seeking relief, **claimants must identify who is legally responsible, who holds the relevant information** and, above all, **who can stop a transfer**. Where the actual custodian is outside the EU, recognition and enforcement may also depend on foreign law or international arrangements.

03 *Judicial protection under Italian law: available remedies and practical limitations*

Italian civil procedure offers potentially relevant interim remedies, although their practical application to crypto-assets is not straightforward.

Judicial seizure *(sequestro giudiziario)* under Article 670 of the Italian Code of Civil Procedure may address disputes over ownership or possession where temporary custody or management is needed.

Precautionary attachment *(sequestro conservativo)* under Article 671 can protect creditors against dissipation of assets, including in claims arising from fraudulent crypto transfers.

Article 700 may also provide **urgent interim relief**, subject to its statutory requirements, potentially including orders to preserve disputed assets or restrict withdrawals.

The real difficulty often begins after the order is issued. Traditional remedies assume identifiable persons and intermediaries within territorial enforcement systems. Crypto-assets can instead cross borders, be exchanged or move between blockchains almost instantly; validated transactions generally cannot be unilaterally reversed.

Blockchain analysis may trace transfers without revealing the wallet holder or enabling recovery. With omnibus wallets, identifying a customer's position may also require internal records accessible only to the exchange.

An **Italian court may thus have jurisdiction and grant interim relief, yet be unable to enforce it promptly against the foreign entity** controlling the assets.

In fraud cases, even a short delay may render an otherwise sound judicial remedy ineffective.

04 *The gap between market regulation and effective judicial protection*

MiCA has improved authorization, custody, asset segregation, recordkeeping and investor protection. But regulating intermediaries is not the same as ensuring that a court order can be executed in time. This distinction exposes a **critical gap between market supervision and civil judicial protection**.

MiCA does not create a comprehensive EU procedure for the immediate freezing of disputed cryptocurrencies or for the prompt cross-border execution of orders against exchanges. Supervision alone cannot guarantee effective interim protection to victims of fraudulent transfers or parties contesting ownership.

Legal remedies do exist: contractual, restitution and damages claims, interim measures and, where fraud is involved, potentially criminal-law mechanisms. Their effectiveness, however, turns on **identifying the assets and the actual custodian, establishing jurisdiction and securing swift cooperation**.

05 *Towards a European mechanism for the judicial protection of crypto-assets*

A harmonized crypto market calls for **judicial safeguards capable of operating at comparable speed and across the same borders**.

One option would be to supplement MiCA, or adopt a dedicated EU instrument, establishing a uniform mechanism for urgently preserving or freezing disputed crypto-assets. Subject to appropriate jurisdictional and procedural safeguards, competent courts could issue orders enforceable against exchanges and custodians operating within the EU.

Regulated intermediaries should face clear, consistent duties to identify relevant accounts, preserve records, restrict withdrawals and execute freezing orders within strict deadlines. Effective, proportionate sanctions for unjustified delay or non-compliance would give those duties practical force, reflecting the speed and potential irreversibility of transfers. This would build on MiCA's investor-protection objectives rather than depart from them.

The next challenge is not merely to regulate crypto markets, but to make the rights recognized within them enforceable. Without **procedures tailored to digital assets and cross-border custody**, protection risks remaining theoretical precisely when speed matters most.

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