

SPAIN REINFORCES INVESTOR PROTECTION IN CRYPTOASSETS

27 de enero de 2022

Cryptoassets have expanded their role in financial markets in recent years, increasingly offered as an investment opportunity to both qualified and retail investors. Their market capitalization has grown exponentially and available crypto instruments have grown in numbers and complexity.

These developments have generated concerns about their impact on financial stability and investor protection. The combination of a highly volatile market with a still nascent regulation environment leads to potential misuses of the technology, such as money laundering and to higher risks for investors, including cyberfraud.

An appropriate response is needed to enable technological developments while addressing the challenges posed by these new types of assets.

Work is under way at the EU level to adopt a new Regulation, commonly known as MiCA, that will soon introduce a new legal framework for these new markets. In particular, this Regulation will establish specific obligations for issuers of cryptoassets that are not considered financial instruments, as well as for service providers, forbidding conducts that could lead to market abuse and introducing a transparency regime in the governance of cryptoassets. Likewise, new national and European supervisory frameworks will be put in place.

At the national level, the Spanish government has already taken action on the regulatory and supervisory fronts to foster safe technological innovation resulting in better services and better functioning markets. Law 7/2020 launched an advanced financial sandbox framework, aimed at providing safe testing grounds for new financial products and technologies. Both the Spanish National Securities Market Commission (CNMV) and the Bank of Spain have issued two joint statements in February, warning about the risks posed by this new type of assets, especially for retail investors. On April 27th 2021, an amendment to the Anti-Money Laundering Law was approved, requiring mandatory registration in Bank of Spain for all persons who provide virtual currency exchange services for fiduciary currency and custody of electronic purses.

Furthermore, Spain is leading the way to control cryptoasset advertising, an area which is not covered by EU legislation. On March 12th 2021, an executive amendment to the Securities Market Act was passed, granting the national supervisor (CNMV) powers to supervise cryptoasset advertising in order to ensure that it is truthful and understandable for all investors. In this context, CNMV has recently published Guidelines, further specifying enforcement of these powers on any agent who obtains remuneration in exchange for advertising or

promoting cryptoassets, including influencers. Among others, there is an obligation to specifically warn about the risks posed by cryptoassets, notably due to lack of liquidity, risk of significant losses or absence of financial regulation in this area. Moreover, all advertising activities will be supervised by CNMV and, in particular, mass campaigns aimed at 100,000 people or more will require prior notification to the supervisor.

Technological innovation is changing competition and market dynamics, demanding an agile adjustment of our regulatory and supervisory frameworks. To promote the digitalization of financial services and also to ensure investor protection in a highly dynamic environment.