



Decree No. 2019-1248 of 28th November 2019 relating to the time limit for examining applications for registration and license of digital assets service providers

NOR: ECOT1922924D

ELI: <https://www.legifrance.gouv.fr/eli/decret/2019/11/28/ECOT1922924D/jo/texte>

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Target audience: *Digital assets service providers, Autorité des Marchés Financiers, Autorité de Contrôle Prudentiel et de Résolution, retail investors, credit institutions.*

Purpose: *To implement the provisions relating to digital assets service providers and token issues*

Entry into force: *The text enters into force the day after its publication.*

Notice: *The text aims to derogate from the rule according to which the silence of the administration is equivalent to acceptance beyond a period of two months (article 1). The text also reorganises Title V of Book V of the Monetary and Financial Code following the changes made by law n° 2019-486 of 22 May 2019 on the growth and transformation of companies (article 2). This law made AMF- and ACPR-registered service providers, AMF-accredited service providers or actors issuing tokens covered by the AMF subject to anti-money laundering and combating the financing of terrorism (AML-CFT) obligations; the text draws the regulatory consequences by defining the conditions of activity vis-à-vis an occasional customer, setting a threshold of EUR 1 000 or its equivalent in the context of exchanges between digital assets, providing for the appointment of a declarant and a Tracfin correspondent and opening up the possibility of using an external service provider (article 3).*

References: *the decree is adopted for the application of articles 85 and 86 of law n° 2019-486 of 22 May 2019 relating to the growth and transformation of companies. The articles of the Monetary and Financial Code amended by the Decree may be consulted, in their wording resulting from this amendment, on the Légifrance website (<https://www.legifrance.gouv.fr>).*

The Prime Minister,

Based on the report of the Minister for the Economy and Finance,

In view of the directive (UE) 2018/843 of the European Parliament and the Council of 30 May 2018 amending the directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, the directives 2009/138/EC and 2013/36/EU;

In view of the Monetary and Financial Code, in particular Articles L. 54-10-3 and L. 54-10-5;

In view of the Code of relations between the public and the administration, in particular Article L. 231-6;

In view of the opinions of the Consultative Committee on Financial Legislation and Regulation dated 19 September 2019;

The Conseil d'Etat (Finance Section) heard,

Decrees:

Article 1

Chapter X of Title IV of Book V of the Monetary and Financial Code is amended as follows:

1° After article D. 54-10-3, article R. 54-10-4 written as follows is inserted:

« *Article R. 54-10-4* – The period after which the silence kept by the *Autorité des Marchés Financiers* on registration requests made in accordance with article L. 54-10-3 shall constitute a decision to accept is six months following the date of receipt of a complete file.

When the *Autorité des Marchés Financiers* requests additional information from the applicant necessary for the investigation of the file, the time limit provided for in the previous paragraph shall be suspended until the requested information is received. »;

2° After article D. 54-10-7, article R. 54-10-8 written as follows is inserted:

« *Article R. 54-10-8* – The period after which the silence kept by the *Autorité des Marchés Financiers* relating to license requests made in accordance with article L. 54-10-5 shall constitute a decision to accept is six months following the date of receipt of a complete file. »

Article 2

Title V of the same book is amended as follows:

1° Its title is supplemented by the words: « and token issuers »;

2° A chapter I is created entitled: « Intermediaries in miscellaneous assets » and including Articles R. 550-1 to R. 550-3, which become, respectively, Articles R. 551-1 to R. 551-3;

3° In the first paragraph of Article R. 550-1, now Article R. 551-1, the words « offer to the public » are replaced by the words « communication of a promotional nature » and the reference « L. 550-3 » is replaced by the reference « L. 551-3 »;

4° In Article R. 550-2, now Article R. 551-2, the reference: « L. 550-4 » is replaced by the reference: « L. 551-4 »;

5° In the first paragraph of Article R. 550-3, now Article R. 551-3, the reference: « L. 550-2 » is replaced by the reference: « L. 551-2 » and the reference: « L. 550-5 » is replaced by the reference: « L. 551-5 »;

6° It is supplemented by a chapter II written as follows:

« Chapter II

« TOKEN ISSUERS

« This chapter does not include regulatory provisions. »

Article 3

Chapter I of Title VI of the same book is amended as follows:

1° The 5° of II of Article R. 561-10 is replaced by the following provisions:

« 5° A transaction or related transactions carried out with a person mentioned in 7° bis and 7° quater of Article L. 561-2 or a subscription with a person mentioned in 7° ter of the same Article, and whose amount or, in the case of an exchange between digital assets, the highest of the exchange values in legal tender, exceeds 1,000 euros; »

2° In the first paragraph of I of Article R. 561-23 and the first paragraph of Article R. 561-24, the references: « 1° to 7° » are replaced by the references: « 1° to 7° quater »;

3° In Article R. 561-38-2, the references: « 1° to 2° sexies, 6°, 6° bis and 7° » are replaced by the references: « 1° to 7° quater ».

In our view Article 4 of the decree which does not relate to the DASP regime contained in the legislative section of the Monetary and Financial Code is not relevant for the purpose of the DASP registration/licence procedures before the AMF and therefore does not have to be translated.

Article 5

The Minister for the Economy and Finance and the The Minister for Overseas Territories, shall be each responsible for the execution of this Decree, which shall be published in the Official Journal of the French Republic.

November 28, 2019.

Edouard Philippe

By the Prime Minister:

The Minister of Economy and Finance

Bruno Le Maire

The Minister for Overseas Territories

Annick Girardin