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15 April 2019

Towards a new regime for crypto-assets in France

The PACTE draft Bill (Action Plan for Business Growth and Transformation) was adopted at its final reading in the French National Assembly on 11 April 2019. Once enacted, the law will establish a framework for fundraising via the issuance of virtual tokens (Initial Coin Offering - ICO) and digital assets services providers (DASP). Here is a focus on the main provisions of this regime.

An optional visa regime for ICOs

Until now, fundraising through the issuance of tokens not classified as financial instruments was not subject to any specific rules. If it is enacted, the PACTE Law will provide a legal response to this issue. The law will enable project initiators who so wish to submit their information document to the Autorité des Marchés Financiers for an optional visa that will be issued on condition that they meet certain requirements.

What are ICO tokens?

The regime covers digital assets not classified as financial instruments, giving rise to one or more rights and that may be issued, registered, stored or transferred using a distributed ledger technology (blockchain).

These requirements are designed to provide investors with better information and protection and are as follows:

- the obligation for the issuer of the tokens to be incorporated as a legal entity established or registered in France;
- the provision of an information document that will provide all relevant information on the token offering, the project to be financed and the company;
- the setting up of a system for monitoring and safeguarding the assets raised during the offering;
- compliance with the Anti money Laundering and terrorist financing rules.

The visa remains optional and the raising of funds without AMF visa will continue to be legal in France. However, issuers who have not received the AMF visa will not be able to use general solicitation.

The AMF will publish the list of ICOs that have received its visa.

The AMF General Regulation and an AMF Instruction will specify the implementation of these rules.

“These are common sense rules. This regime will enable us to address this new issue with a proportionate framework that both protects investors and fosters innovation. We believe it will attract the good projects.” Robert Ophèle, AMF’s chairman.

Optional license for digital assets services providers

If they wish, “digital assets services providers” (DASP) may be licensed and placed under the supervision of the AMF.

The term “digital assets” comprises tokens issued during ICOs and virtual currencies as defined by European law (such as the bitcoin). Financial instruments are excluded from this regime.

This new optional status will cover a wide range of activities:

- custody of digital assets for third parties;
- purchase or sale of digital assets against legal tender or other digital assets (broker/dealer);

- operation of a digital assets trading platform (stock exchange);
- other digital assets services such as the reception and transmission of third-party orders, third-party portfolio management, advice, underwriting and placing on or without a firm commitment basis.

Licensed service providers will be subject to a set of core rules common to all services (insurance or equity, internal control procedures, resilient IT system, transparent pricing policy, etc.) as well as a certain number of rules specific to the service offered.



A decree and the AMF General Regulation will draw the outlines of each of these services, with the aim being to ensure market integrity and an efficient and transparent price formation mechanism, as well as to provide investors with reliable information and guarantees.

Mandatory registration for two activities

Whether or not they choose to obtain the optional license, service providers who wish to provide digital assets custody services to third parties or to purchase/sell digital assets in exchange for legal tender are subject to mandatory registration with the AMF.

For these entities, the AMF will verify the following (this portion of the set of rules is mandatory) and will give its decision after consulting with the French Prudential Supervisory and Resolution Authority (Autorité de contrôle prudentiel et de résolution):

- the reputation and competency of their corporate officers and shareholders;
- the existence and implementation of Anti money Laundering and terrorist financing procedures.

The possibility for certain funds to invest in digital assets

The draft bill provides that two types of funds may henceforth invest in digital assets:

- professional specialised investment funds provided that they comply with the liquidity and valuation rules applicable to them;

- professional private equity investment funds subject to a limit of 20% of their assets.

Measures to protect investors

The PACTE draft Bill as definitively adopted by the French Parliament reinforces the AMF's powers to provide better protection to investors.


The AMF will have the powers to oversee the ICOs that have received its visa and to supervise licensed service providers. In the event of non-compliance with the rules, the AMF may hand down sanctions against ICO issuers and licensed service providers.

ICOs that do not have visa and unlicensed service providers will be prohibited from solicitation, patronage and sponsorship activities. Advertising will remain authorised.

Consequently, the AMF may publish a "blacklist" of ICOs and digital assets services providers who do not comply with the regulations.

Finally, it may block access to fraudulent websites offering services in digital assets.

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