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Digital assets: the AMF updates its policy on DASPs

The AMF has revised its policy (Position DOC-2020-07) on the regime for digital asset service providers to reflect changes in the products and business models of industry players. Some provisions have been clarified, while those that have become obsolete have been removed.

First of all, the AMF stresses the importance for companies who wish to register as DASPs to make sure that the assets they are offering in their services are indeed digital assets. The policy therefore stresses the need to monitor the nature of the digital assets concerned by the services proposed for as long as the services are provided (question 2.1).

Question (3.1, formerly question 3.2) has been completed to clarify the concept of promotional marketing that enables a digital asset service to be located in France: this marketing is considered to have been effectively sent by the DASP when it is issued at its initiative or on its behalf by a third party. This point clarifies the situations where the AMF considers that the DASP has taken this initiative.

The AMF has toughened the substantive criteria used for authorising DASPs by requiring the use of language that can be understood by all French customers in their marketing materials and when dealing with complaints from them.

The AMF also states that the use of an Application Programming Interface (API) does not rule out the qualification of the digital asset custody service or other digital asset services. Services should be analysed on a case-by-case basis.

A new question (12.3) has also been added to clarify the extent to which digital asset services may be provided where a provider offers a service that allows customers to participate in "staking" or "cryptolending" activity.

Lastly, questions related to transitional provisions or provisions that were in force prior to 1 May 2021 have been removed because they are now obsolete.

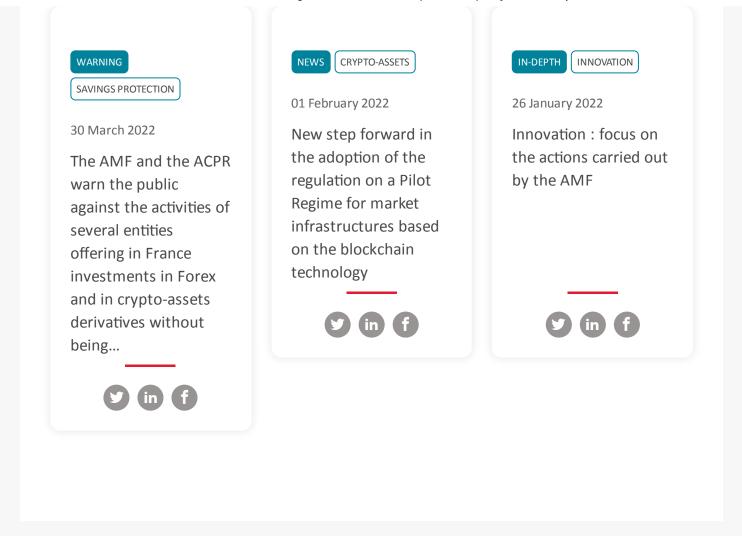
It should be noted that Position DOC-2020-07 remains a work in progress and may be updated regularly, depending on the issues raised by stakeholders.

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