RocaJunyent Reports

Prevention of Money-Laundering and
Terrorist Financing Department
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The relevance that the sector related to cryptocurrencies or cryptoassets, wallets and this type of business model has gained both nationally and internationally is more than remarkable. However, the lack of regulation and the pseudo-anonymity that accompany this type of activity has generated a great deal of insecurity and misuse of the tools developed, which are often used for money laundering and terrorist financing, thus creating a serious problem in this area.

For this reason, both international supervisory bodies and the companies in the sector are becoming increasingly aware of this and are promoting the regulation of these services, to implement more guarantees and legal security for companies and for the end users of these services.

In this regard, on an international level, we have observed the willingness of regulators to establish a legal framework for cryptocurrency service providers (commonly referred to as "exchanges" or "wallets"), and on an European level, we are awaiting the future regulation of cryptoassets in Europe ("Market in Crypto Assets" (MiCA)), which should provide a regulated framework for the development of the different classes of tokens and the requirements for service providers linked to Blockchain / DLT technology.

On a national level, regulators-mainly the CNMV- have always been very direct with cryptocurrency providers operating in national territory, issuing warnings that they are service providers not regulated by the CNMV or the BdE.

Consequently, with the publication of RD-L 7/2021, which transposes several European directives, including the Fifth Directive on the Prevention of Money Laundering and Terrorist Financing (hereinafter "PML/TF"), providers of services for the exchange of virtual currency for fiat currency and custody of electronic wallets, i.e. businesses related to cryptocurrencies, wallets, exchanges, etc., were incorporated as obliged parties to this regulation.

- **Information Alert: RD-L 7/2021 Transposition of European Directives for the fight against money laundering and terrorist financing**

- **Information alert: RD-L 7/2021 on Control of electronic currency service providers and virtual currency exchange services**

The aforementioned Royal Decree-Law added to the LPBC/FT a second additional provision which determined that the Banco de España would be in charge of supervising the obligation to register and the conditions required for access to and maintenance of registration. In the same way as many financial sector institutions must request authorisation from the Bank of Spain (credit institutions and payment institutions), the National Securities Market Commission (CNMV) (venture capital institutions) or the corresponding supervisor to authorise or register their activity before they start to operate, **starting last Friday, the date on which the Bank of Spain set up the corresponding register** for this type of activity, being included in the register will also be mandatory prior to its implementation.

In addition, as is mandatory for this type of activities, regulated entities must submit the application for registration by means of forms accompanied by specific documentation, including, among others, the AML/CFT procedures: the Risk Self-Assessment Report and the AML/CFT Manual.

What we should know if our activity is related to this sector

Here are 4 guidance notes on the registration process:

- The following must be registered: both natural and legal persons offering services in Spain, as well as those offering services to any location if such activities are based, directed or managed in in Spain.

- The procedure may be carried out in person, by post or electronically, and it is mandatory for legal persons to do it electronically.

- The registration process must be accompanied by a minimum of mandatory documentation, apart from the forms provided by the Banco de España, which will be different for natural and legal persons.

- Companies and individuals that were already operating before the creation of this register have a maximum of 9 months from the publication of the RD-L in April within which to register.

- New companies will not be able to operate until they have obtained the resolution for their registration in the corresponding register of the Banco de España.
- The deadline for the resolution of the registration is 3 months from the date of the request for receipt.