

Last Wednesday 30 November 2022, Decree 478/2022, of 23 November 2022, approving the regulations for the development of the requirements to exercise as a digital supervisor, the obligations of the digital supervisor and the disciplinary and sanctioning regime (hereinafter, the “**Regulation**”) was published in the Official Gazette of the Principality of Andorra (*Butlletí Oficial del Principat d’Andorra*, BOPA), after having been approved by the Government of Andorra in the session of 23 November 2022. This Decree is an innovative regulation in which Cases&Lacambra has actively participated in its development.

Law 24/2022, of 30 June, on the digital representation of assets by means of cryptography, distributed ledger technology and blockchain (hereinafter, the “**Law 24/2022**”), established and regularised the figure of the digital supervisor -unprecedented in comparative law- as a new player within the blockchain ecosystem and subject to prior license to be granted by the Andorran Financial Authority (“**AFA**”) to exercise its activity in the Principality of Andorra.

Pursuant Law 24/2022, the digital supervisor can be a natural person or a legal entity in the form of a public limited company (*societat anònima*) or a private limited company (*societat de responsabilitat limitada*) under Andorran law and for an indefinite period of time. In the latter case, the company is required to appoint at least one natural person to represent it. As an essential requirement, the natural person registered as a digital supervisor, including the representative appointed by the company, must be a lawyer or a licensed economist.

The main role entrusted to the digital supervisor is the administrative interlocution with the AFA in requests for authorisation of activities related to the digital representation of assets, either for the procedure of obtaining a license to start exercising, or for a supposed regularisation of the activity in accordance with the first transitory provision of Law 24/2022. Furthermore, the Regulation develops other functions having into consideration the typology of the participants carrying out an activity related to the digital representation of assets, i.e., issuers of digital assets or other participants (for example, custodians or exchange platforms). In general, it describes functions related to the monitoring and follow-up of the participants’ correct compliance. The Regulation also stresses the need to require an acceptance of the assignment, materialised with the formalisation of the corresponding agreement entered into between the digital supervisor and the participant.

In order to ensure a level playing field, suitability criteria regarding professional honourability, knowledge and experience are developed. The text does not go into requesting specific studies -unlike, for example, the MiFID II standard-, but rather varies according to the evolution of educational offers in this field and, lastly, the supervisory authority’s criteria.

The Regulation also requires the digital supervisor to comply with certain obligations in matters related to insider information and market manipulation, especially with regards to the issuance of digital assets, for the purpose of registration of activities, development of an annual report and the duty of insurance.

Particular reference is made to the management of conflicts of interest, in particular that (i) digital supervisors may not acquire or subscribe the digital assets issued by the issuers appointing them to exercise the function of digital supervisors; and (ii) participants carrying out activities related to the digital representation of assets may not appoint themselves as digital supervisors nor appoint employed persons as digital supervisors.

With respect to registration, it is established that the AFA will maintain an updated registry of digital supervisors with information about their registration number, name or company name, address, type and, if necessary, the representative of the digital supervisor in the form of a company. We recall that Law 24/2022 established in its third transitory provision a period of three months to create the registry of digital supervisors, i.e., until 20 January 2023.

Lastly, the Regulation includes certain provisions related to the liability regime of the digital supervisor, as well as a disciplinary and sanctioning regime to be exercised by the AFA.

With this Regulation and following the spirit of Law 24/2022, the Principality of Andorra is moving forward to the implementation of blockchain technology in the Andorran economy. Moreover, there are still many aspects to be dealt with in order to channel Law 24/2022, as we would have to wait for its regulatory development, the technical communications to be prepared by the AFA in this field and the UIFAND criteria.

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