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Serbia: Draft Law on Digital Property

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Regulatory

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On 27 November 2020, the Government of the Republic of Serbia adopted the Draft Law on Digital Property (hereinafter: the "Draft Law")

The aim of this Draft Law is to regulate, improve and develop the digital property market in Serbia, and indirectly harmonize domestic with international regulations, including the incorporation of solutions from anti-money laundering and anti-terrorist financing recommendations and directives. In addition, the reason for this matter's legal regulation is the provision of investment tokens financing, improvement and development of capital markets through digital technology use, as well as strengthening the legal framework for combating abuse in the digital property market, including the fight against money laundering and terrorist financing.

Key Novelties

The Draft Law is important because it defines and elaborates on the institutes and concepts such as: digital property, virtual currency, white paper, digital token, issuers and providers of services related to digital property, users and holders of digital property, as well as related transactions.

As a novelty, the Draft Law introduces the possibility of providing advisory services related to digital property, which include: investment advice, giving investment recommendations, advice on capital structure, business strategy, issuance of digital property, etc. In addition, there are certain restrictions related to the business of legal entities and entrepreneurs in relation to digital property: virtual currencies cannot be deposited as an investment in the company but can be converted into money and then paid as a cash investment in the company, non-cash investments into companies can be in digital tokens that are not related to the provision of services or performance of work, etc.

Also, the Draft Law allows the issuance of digital property in the Republic of Serbia, regulates conditions for advertising of the initial offer, and registration and payment of digital property, as well as details related to white paper, which include its compilation, content and conditions for publication. Particular attention is paid to secondary trading market in digital property, especially, to the entities that can organize the platform for trading in digital currency and the tasks performed by the platform organizers. A liberal regulatory system for trading in the digital property market (OTC market) has been introduced. According to this system, trading in digital properties in the Republic of Serbia is allowed, and it does not require the participation of intermediaries - providers of services related to digital assets or trading platforms, but the parties to the OTC market can conclude and implement appropriate agreements themselves.

It was also determined that the use of smart contracts in digital property's secondary market is allowed, provided that the service provider has obtained the consent of the users of digital property for use of mentioned contracts.

A special part of the Draft Law is dedicated to the prohibition of market abuse, which primarily refers to insider information and market manipulation.

Some of the more important provisions of this Draft Law define special conditions which refer to the permitted legal form of providers of services related to digital property, minimum capital, as well as the license for the provision of services related to digital property. Within this part of the law, special attention is paid to the protection of funds of users of digital property, their transfer, as well as data protection and business secrets in the field of digital property.

Another important area that has been regulated is the pledge and fiduciary law area concerning the digital property, which defines the specifics in connection with the bases of acquiring the digital property rights, obligations of creditors and debtors, termination of rights and settlement, etc.

It is worth mentioning that this Draft Law defined the competencies of the Securities Commission and the National Bank of Serbia concerning digital property rights, whose role is very important in this area, as well as the entire supervision procedure and penal provisions that are applied in cases of non-compliance with the law.

Application of the Law

It is expected that in a short period of time the Assembly of the Republic of Serbia will adopt this Draft Law, the implementation of which, as defined in the proposal itself, will begin after six months from the date of its entry into force.

