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## **LICENSING AND SUPERVISION IN THE FIELD OF DIGITAL ASSETS**

Kristina Trajković

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## **Licensing and supervision in the field of digital assets**

Kristina Trajković

**Abstract:** The digital assets market has been growing in the last decade. Market development brings new opportunities for economic development at the national level. However, the wide acceptance of virtual currencies also creates the potential for money laundering, terrorist financing and other risks specific to this market. Hence the need for continuous market supervision and the establishment of an adequate regulatory framework which will above all contribute to greater legal certainty in dealing with virtual currencies. Although there is no unique approach in the world regarding the legal regulation of virtual currencies, a large number of countries has established a system of regulation, i.e. rules regarding licensing and supervision in this area. This paper first presents a brief analysis of the digital assets market. The analysis aims to consider the existing risks, as well as the volatility of virtual currency prices. In the continuation of the paper, a comparative legal study of laws and regulations governing the licensing and supervision of the digital assets market in the European Union, Japan, the United States and the Republic of Serbia is presented. The aim is to understand the need to define the regulatory framework and unique rules for the implementation of the licensing and supervision process by regulators.

**Keywords:** regulation, digital assets, virtual currencies, licence, supervision.

[JEL Code]: E30, K20, K23.

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## Non-Technical Summary

Digital assets are records of value in digital form that can be bought, sold, transferred, or exchanged. The growing presence of this global phenomenon and the accelerated development of the market bring new challenges to the regulators around the world. The paper presents some of the technological and financial risks, volatility of digital assets prices, as well as increased exposure to the risk of money laundering and terrorist financing. This indicates the need for a state regulation. This is also supported by the fact that many countries around the world have defined a system of regulation, including rules relating to the licensing and supervision process in this area.

The Republic of Serbia is the first country in the region to regulate the field of digital assets. The Law on Digital Assets (RS Official Gazette, No 153/2020) regulates the matter that has not been regulated in our country so far, except in the part related to the prevention of money laundering and terrorist financing. Based on the Law on Prevention of Money Laundering and Terrorist Financing (RS Official Gazette, No 153/2020), the National Bank of Serbia has been conducting continuous supervision of all digital assets service providers since 2018. With the implementation of the Law on Digital Assets, among other things, the procedure for licensing and supervision of service providers related to digital assets has been defined. A company that intends to provide this type of service on the territory of the Republic of Serbia, must first obtain the appropriate licence from the National Bank of Serbia and/or the Securities Commission. Otherwise, it will be considered that it provides services related to digital assets without authorization.

In addition to the regulatory framework of the Republic of Serbia, the paper presents the system of regulation of digital assets in the European Union, Japan and the United States, with special reference to regulations relating to the licensing and supervision process. Japan is home to one of the world's largest virtual currency markets. In the last few years, the largest number of transactions related to digital assets has been performed in this country. The European Union and the United States are characterised by a lack of unification in the regulation of digital assets markets across countries.

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## 1 Introduction

The digital revolution represents a shift from analogue and electronic technology to digital technology, and is currently at its peak. The emergence of virtual currencies has triggered the formation of a fundamentally new economic system, where the exchange of funds takes place without the involvement of traditional financial institutions. Virtual currencies are digital financial assets, in which ownership and transfer of ownership are usually guaranteed by cryptographic decentralised technology - blockchain. The increase in their market value and growing popularity around the world open up numerous challenges for the economic system and regulators. A large number of dilemmas was initiated primarily due to significant changes in the prices of virtual currencies and the lack of a regulatory system. The need to establish an adequate regulatory framework and security is the main challenge for all the states, i.e. their regulatory bodies.

The current situation regarding the legal regulation of virtual currencies has changed significantly compared to the period when they were created. This is supported by the fact that many countries have defined rules relating to the process of licensing and conducting supervision in this area. A large number of international regulators view virtual currencies as a new direction of economic development and in this regard continuously monitor the development of new technologies and market phenomena. What contributes to this is the availability of a large amount of data, based on which it is possible to conduct advanced statistical analyses of frequent changes in the prices of virtual currencies. This enables the quantification of evolutionary changes that accompany the emergence of the market and maturation, which further contributes to the definition of the rules in terms of market regulation.

The following is a brief analysis of the digital assets market, with a special reference to the need to organise, i.e. regulate this market. An analysis of the regulatory framework of the European Union, Japan and the United States of America is given with regard to the licensing of companies that intend to provide services related to digital assets and supervision in this area. At the same time, presented is the regulatory framework of the Republic of Serbia, as the first country in the region to regulate the field of digital assets.

## 2 Brief analysis of the digital assets market

After more than ten years of continuous development and innovation, the market of virtual currencies and blockchain technology is still a major challenge. When conducting market analysis, it is necessary to consider technological, financial, legal and political issues, as well as analyse the interests of all parties involved such as: investors, regulators, companies, developers, virtual currency holders, hackers, stock and trading platforms.

Instability and insufficient market regulation create the basis for the development of significant types of risks. The analysis can identify several key risks.

Due to their nature, virtual currencies are suitable for various types of misuse. The use of schemes for performing transactions whose purpose is to perform criminal activities, i.e. the use of virtual currencies for the purposes of money laundering and terrorist financing, is one

of the most common misuses. Also, the anonymity of virtual currencies can be misused as an instrument of cross-border money laundering.<sup>1</sup> In order to prevent the occurrence of these misuses, responsible regulators strive to take all necessary measures within their competences.<sup>2</sup>

Digital assets are also the subject of numerous hacker attacks. The decentralised blockchain principle, on which the functioning of virtual currencies is based, is suitable for conducting these types of attacks. Hacker attacks can have a significant impact on market stability, as they can target blockchain<sup>3</sup> trading platforms or mining pools<sup>4</sup>. A frequent embezzlement in this market is the theft of funds from the user's digital wallet.

In terms of financial risks, the most important are market risk and liquidity risk of virtual currencies. Events such as hacker attacks, dilemmas over regulatory issues and investors' attitude towards the market<sup>5</sup> can significantly affect these risks. An increase in trading volume, market capitalisation and price volatility of virtual currencies lead to a decrease in their liquidity.<sup>6</sup> Liquidity varies from one virtual currency to another ('popular' virtual currencies have a higher level of liquidity). On the other hand, market risk arises from large price fluctuations in virtual currencies. The changes in the prices of virtual currencies are presented below in order to see the frequency of changes that lead to an increase in market risk.

Figure 1 Bitcoin price volatility in dollars (2021–2022)



Source: Coinmarketcap.

<sup>1</sup> Financial Action Task Force, 2014.

<sup>2</sup> Financial Action Task Force, 2019, Guidance for a risk-based approach "Virtual assets and virtual asset service providers".

<sup>3</sup> The ease of execution of an attack is greatly influenced by the size of the blockchain network. Also, the private blockchain is significantly more exposed to potential attacks than the public one.

<sup>4</sup> Abhishta, A., Joosten, R., Dragomiretskiy, S. & Nieuwenhuis, L. (2019), Impact of Successful DDoS Attacks on a Major Crypto-Currency Exchange. 2019 27th Euromicro International Conference on Parallel, Distributed and Network-Based Processing (PDP).

<sup>5</sup> Corbet, S., Lucey, B., Urquhart, A. and Yarovaya, L. (2019), Cryptocurrencies as a financial asset: A systematic analysis. *International Review of Financial Analysis*, 62, pp.182–199.

<sup>6</sup> Koutmos, D. (2018), Liquidity uncertainty and Bitcoin's market microstructure. *Economics Letters*. 172. pp. 97–101.

From the beginning of 2021, the price of bitcoin was on the rise, reaching 62,575 dollars in April. At the end of May, the price dropped, fluctuating by the beginning of November up to a maximum of 50,000 dollars. During November, the price touched a new peak of 68,990 dollars, only to strike a downward path again in late December.<sup>7</sup>

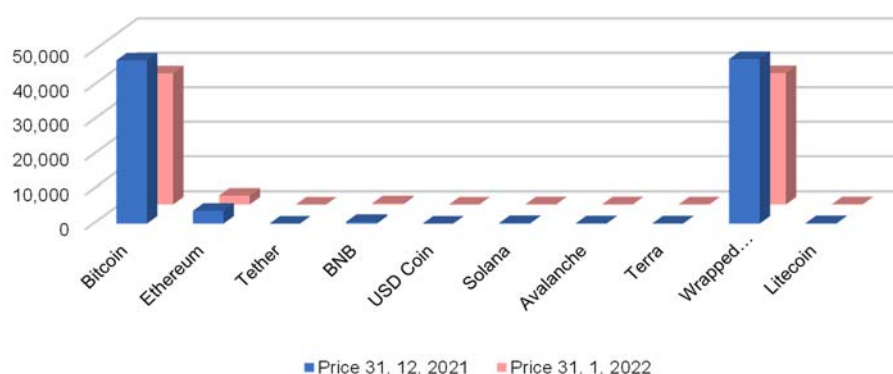
Figure 2 Ethereum price volatility in dollars (2021–2022)



Source: Coinmarketcup.

Ethereum, as the second most important virtual currency, recorded significant changes in price during 2021, just as bitcoin. At the very beginning of January, the price of ethereum was 798 dollars, after which it recorded a rise with slight oscillations to a maximum of 2,000 dollars. However, it spiked to 4,168 dollars in May. From the end of May to the beginning of August, another drop to the level of 2,000 dollars was noticed, whereas in August it reached another peak – 4,800 dollars. By the beginning of 2022, it recorded price movements between 3,500 and 4,500 dollars.<sup>8</sup>

Chart 1 Comparison of prices of virtual currencies (end of December 2021 and end of January 2022)



Source: Coinmarketcap.

<sup>7</sup> Changes in the price of bitcoin 2021-2022. year, <https://coinmarketcap.com/currencies/bitcoin/>

<sup>8</sup> Changes in the price of ethereum 2021–2022 year. <https://coinmarketcap.com/currencies/bitcoin/>



Chart 1 shows the changes in the prices of virtual currencies over a period of one month. The end of January 2022, compared to the end of December 2021, marked a decline in the prices of virtual currencies. The biggest drop in prices in the observed period was recorded by the solana – by as much as 46%. Then, ethereum by 30%, falling from 3,713.43 dollars at the end of December to 2,603.26 dollars. At the same time, bitcoin fell 20%, from 47,169.37 to 37,920.28 dollars. The prices of ‘stable’ virtual currencies, such as tethers, have remained unchanged.<sup>9</sup>

The oscillations exhibited by the prices of virtual currencies are the result of several factors, including: supply and demand; attitude of investors and users towards the market; regulatory regulations; and media campaigns. Significant changes in the price of ‘popular’ virtual currencies, such as bitcoin and ethereum, have affected the development of the entire market over time. For example, during 2017, when the price of bitcoin rose sharply, other virtual currencies followed a similar trend.<sup>10</sup>

In addition to price movements, one of the basic parameters that allows us to see the capacity and performance of the digital asset market is market capitalisation. Market capitalisation represents the total representation of virtual currencies in the market. In order to calculate the market capitalisation of a virtual currency, the number of its issued units should be multiplied by the price of one unit. Based on the market capitalisation, it is possible to compare the value of two virtual currencies, monitor market trends and determine the level of investment stability of a particular virtual currency. When it comes to investing, virtual currencies with higher market capitalisation are generally more stable, while virtual currencies with lower market capitalisation are more exposed to market changes - they can make big gains or dramatic losses. Some authors classify virtual currencies according to the investment risk determined based on market capitalisation, namely:<sup>11</sup>

1. Virtual currencies with a market capitalisation of more than 10 billion dollars (bitcoin and ethereum) - low risk when investing;
2. Virtual currencies with a market capitalisation between 1 billion and 10 billion dollars - medium risk when investing;
3. Virtual currencies with a market capitalisation of less than 1 billion dollars - high risk when investing due to possible losses amid market changes.

The factors that primarily affect the market capitalisation are supply and price. With the high price, the market capitalisation increases significantly. This is supported by the available

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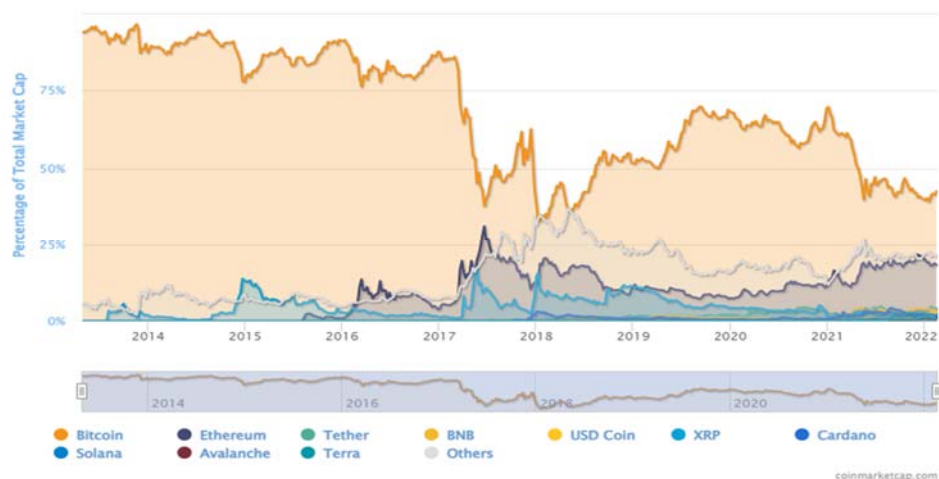
<sup>9</sup> Changes in the price of virtual currencies at the end of December 2021 and at the end of January 2022. <https://coinmarketcap.com/>

<sup>10</sup> Ferreira, P. & Pereira, É. (2019) Contagion Effect in Cryptocurrency Market. *Journal of Risk and Financial Management*. 12 (3). p. 115.

<sup>11</sup> MarketCap. <https://www.coinbase.com/learn/crypto-basics/what-is-market-cap#:~:text=For%20a%20cryptocurrency%20like%20Bitcoin.coins%20that%20have%20been%20mined.&text=I n%20crypto%2C%20market%20cap%20is,coin%20at%20any%20given%20time.>

data on the share of bitcoin market capitalisation in relation to the total market capitalisation (Figures 3, 4 and 5).

Figure 3 Market capitalisation of virtual currencies (2013–2022)



Source: Coinmarketcap.

In the observed period, bitcoin has reached the highest value of market capitalisation in relation to other virtual currencies. During 2014, it reached more than 75% of total market capitalisation. The significance of its share in total market capitalisation can be seen best if we observe the value of this parameter with and without its participation.

Figure 4 Value of total market capitalisation with bitcoin (end of November 2021 – February 2022)



Source: Coinmarketcap.

Figure 5 Value of total market capitalisation without bitcoin  
(end of November 2021 – February 2022)



Source: Coinmarketcap.

Based on the above, we can conclude that the total value of market capitalisation without the participation of bitcoin is lower by as much as 100 billion dollars.

The market capitalisation of ‘stable’ virtual currencies has been growing significantly in recent years, currently amounting to about 154 billion dollars, of which the tether<sup>12</sup> – a ‘stable’ virtual currency has the largest share in total market capitalisation. ‘Stable’ virtual currencies in the absence of extreme price volatility offer security to investors. There is a noticeable trend of increasing the number of transactions with this type of virtual currency. Also, more and more companies are finding ways to enter the ‘stable’ virtual currency market, while brokerage houses in some countries (USA) are starting to provide services related to ‘stable’ virtual currencies.<sup>13</sup>

The goal of ‘stable’ virtual currencies is that, in addition to being a commodity and a means of security, they can also serve as a means of payment, for which they could have potential, according to many authors. The main characteristics of ‘stable’ virtual currencies are their coverage, from which the right to redemption and stable value should derive, although this is not always the case. ‘Stable’ virtual currencies can be covered by official currencies, metals, other virtual currencies and other security methods such as various investments.

The emergence of ‘stable’ virtual currencies has prompted consideration of the idea of ‘stable’ virtual currencies of the central bank. Namely, the company Facebook opened the issue of cash flow control by the state by introducing its virtual currency - libre (current diem). In other words, many central banks have focused their research on developing their own virtual

<sup>12</sup> Market capitalisation of ‘stable’ virtual currencies, <https://coinmarketcap.com>.

<sup>13</sup> Official Monetary and Financial Institutions Forum – OMFIF – The US perspective: regulating cryptoassets and stablecoins.

currencies based on the same technology as decentralised virtual currencies such as bitcoin. One of the advantages of ‘stable’ virtual currencies is the use of blockchain technology in favour of transaction tracking.<sup>14</sup>

Some of the most popular stable virtual currencies are:

- Diem (formerly Libra) - a ‘stable’ virtual currency that uses a large number of official currencies as a cover, including the euro;
- Tether - coverage of this ‘stable’ virtual currency is in US dollars;
- Dai - a ‘stable’ virtual currency pegged to the dollar, and supported by various other virtual currencies.

The influence of ‘stable’ virtual currencies on the financial market is currently insignificant. However, given their advantages, it is possible that their market influence will change in the future.

Countries around the world have reacted differently to virtual currencies and the development of this market. Due to the presence of the above risks, noticeable price volatility, and market eligibility for illegal activities and crimes, some jurisdictions have adopted a stricter regulatory approach by imposing a total ban on digital assets, while some have established a regulatory framework to regulate the sale, purchase and virtual currency exchange.

### **3 Regulation of digital assets in the Republic of Serbia**

In the Republic of Serbia, the Law on Digital Assets (hereinafter: Law) entered into force in December 2020. Its implementation began in June 2021.<sup>15</sup> The Law regulates matters that have not been regulated in our country so far, except in the part related to the prevention of money laundering and terrorist financing, based on which the supervision of the National Bank of Serbia over providers of services related to virtual currencies has been established since 2018. The matter regulated by this Law includes<sup>16</sup>:

1. Issuance of digital assets and secondary trading in digital assets in the Republic of Serbia;
2. Providing services related to digital assets;
3. Pledge and fiduciary right on digital assets;
4. Competence of the Securities Commission and the National Bank of Serbia;
5. Supervision over the implementation of the Law.

Among other things, the Law and the relevant by-laws regulate the conditions and procedure for granting licences for the provision of services related to digital assets, conditions and manner of granting and revoking consent for establishing a branch or direct provision of services related to digital assets in a foreign country, governance and internal controls systems,

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<sup>14</sup> CBDC – central bank digital currency, <https://www.coindesk.com/learn/what-is-a-cbdc/>

<sup>15</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

<sup>16</sup> Ibid.

and conditions and manner of performing supervision over digital asset service providers, issuers and holders.

In the Republic of Serbia, with the adoption of the Law, the Law on Amendments to the Law on Prevention of Money Laundering and Terrorist Financing<sup>17</sup> was adopted, and full harmonisation with all international standards in the field of prevention of money laundering and terrorist financing defined by FATF Recommendation no. 15<sup>18</sup> and the provisions of the Fifth EU Anti-Money Laundering Directive.<sup>19</sup> The Law refers to the similar application of the mentioned regulations, while the Law on Prevention of Money Laundering and Financing of Terrorism itself contains special provisions related to the prevention of money laundering and terrorist financing in the field of digital assets.

The Law defines the division of competences between the supervisory bodies – the National Bank of Serbia and the Securities Commission.<sup>20</sup> Accordingly, an agreement on cooperation in the field of digital assets was concluded between the two bodies. According to the principle of division of competences, the National Bank of Serbia is responsible for issues related to virtual currencies as a type of digital asset, and the Securities Commission is responsible for issues related to digital tokens as a type of digital asset, as well as digital assets that have the characteristics of financial instruments. Also, this agreement stipulates that cooperation will be based on the principle of division of competences in accordance with the provisions of the Law, the law governing the prevention of money laundering and terrorist financing, other regulations of the Republic of Serbia, as well as recommendations and standards of international regulatory and supervisory bodies in the field of digital assets and prevention of money laundering and terrorist financing.

The by-law of the National Bank of Serbia – Decision on Implementation of Provisions of the Law on Digital Assets Relating to Issuing of Licence to Provide Virtual Currency Services and Consents of the National Bank of Serbia, regulates the conditions and procedure for granting a licence for the provision of services related to digital assets in more detail in the part related to virtual currencies and the evidence submitted to the National Bank of Serbia with the application for licence.<sup>21</sup> The Securities Commission has adopted the Rulebook on Implementation of Provisions of the Law on Digital Assets Relating to Issuing of Licence to Provide Digital Token Services and Consents of the Securities Commission<sup>22</sup>, which regulates the manner of implementation of the provisions of the Law in more detail based on which the Securities Commission issues a licence for the provision of services related to digital tokens.

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<sup>17</sup> Law on Amendments to the Law on Prevention of Money Laundering and Terrorist Financing (RS Official Gazette, No 153/2020).

<sup>18</sup> FATF (2021), Updated Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers, FATF, Paris, available at: [www.fatf-gafi.org/publications/fatfrecommendations/documents/Updated-Guidance-RBA-VA-VASP.html](http://www.fatf-gafi.org/publications/fatfrecommendations/documents/Updated-Guidance-RBA-VA-VASP.html)

<sup>19</sup> Directive (EU) 2018/843. (2018). Europe Parliament.

<sup>20</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

<sup>21</sup> Decision on Implementation of Provisions of the Law on Digital Assets Relating to Issuing of Licence to Provide Virtual Currency Services and Consents of the National Bank of Serbia (RS Official Gazette, No 49/2021).

<sup>22</sup> Rulebook on Implementation of Provisions of the Law on Digital Assets Relating to Issuing of Licence to Provide Digital Token Services and Consents of the Securities Commission (RS Official Gazette, No 69/2021).

### 3.1 Licensing procedure in the Republic of Serbia

Companies submit an application for a licence to provide services related to digital assets to the supervisory bodies (the National Bank of Serbia and the Securities Commission) through the eUprava Portal. On that occasion, they submit evidence and documentation defined by the Law, as follows<sup>23</sup>:

1. decision on entry into the register of business entities;
2. general acts of the applicant (statute, i.e. the founding act and operating rules of the company);
3. programme of activities which further regulates the manner and conditions of providing services related to digital assets;
4. business plan with projection of income and expenses for the first three years of operation based on which it can be concluded that the applicant will be able to ensure compliance with appropriate organisational, personnel, technical and other conditions for continuous, stable and secure operations, including the type and number of expected users of digital assets, as well as the expected volume and amount of transactions with digital assets, for each type of the service it intends to provide;
5. description of planned measures for the protection of funds of digital asset users;
6. description of the governance and internal controls systems;
7. description of internal control measures that are established in order to fulfill the obligations determined by the regulations governing the prevention of money laundering and terrorist financing;
8. description of planned training measures for employees in connection with performing transactions with digital assets;
9. description of the organisational structure, including data on the planned outsourcing of certain operational activities related to the provision of digital asset services;
10. description of planned measures for information and communications system security management;
11. data on the members of the applicant's management and director of the service provider, with data and evidence that these persons have a good business reputation;
12. data on persons with a qualifying holding in the applicant, the amount of the holding, as well as evidence of the eligibility of those persons;
13. data on the external auditor who performs the audit of the applicant's financial statements in the year in which the application is submitted, if the applicant is required to audit the financial statements in accordance with law;
14. data on persons closely linked with the applicant and a description of such close links;
15. evidence of holding minimum capital regulated by the Law;

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<sup>23</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

16. evidence that the applicant has not been convicted by a final judgment for a criminal offence, as well as that no criminal proceedings have been instituted against the application, in terms of the law governing the liability of legal entities for criminal offences, as well as that the applicant has not been convicted by a final judgment for an economic crime that would make the person unfit to provide services related to digital assets, in terms of the law governing economic crimes;
17. data on the paid fee in accordance with the tariff of the supervisory body.

In this way, an administrative procedure is initiated, which is conducted based on the Law, as well as the Law on General Administrative Procedure, to whose application *mutatis mutandis* the Law refers.<sup>24</sup>

During the analysis of the submitted documentation of the company that filed an application to the supervisory authority for a licence to provide services related to digital assets, it is especially assessed whether there are indications that the licence or holding in the service provider is obtained for money laundering and terrorist financing. In this regard, the source of the applicant's capital, i.e. the source of funds for acquiring a qualifying holding, is assessed separately, as well as whether persons with a qualifying holding or persons related to them were connected with money laundering and terrorist financing, description of governance and internal controls systems, and the description of internal control measures established to meet obligations established by regulations governing the prevention of money laundering and terrorist financing. It is determined whether the governance and internal controls systems include an organisational structure harmonised with the applicant's business model, with precisely and clearly defined division and segregation of tasks, duties and responsibilities related to the provision of digital asset services. The functioning of the governance system and implementation of internal controls should be fully harmonised with the business model of a particular company. In this regard, the service provider should describe in detail the measures to be taken if the current situation turns out to be characterised by certain irregularities. Among other things, an analysis is made of the procedures related to identifying, measuring and monitoring the risks to which the service provider is exposed or could be exposed, especially the risk of money laundering and terrorist financing, i.e. whether these procedures contain a description of identified types of risks, risk identification procedure, planned measures for risk management, measurement and monitoring. The adequacy of accounting procedures and procedures for assessing compliance with regulations governing the prevention of money laundering and terrorist financing is determined.

In addition to the above, in the process of issuing licences for the provision of services related to digital assets, an assessment is made of the business reputation, professional qualifications and experience of the proposed members of the management and director of the service provider, the eligibility of persons with a qualifying holding in the service provider, as well as whether evidence has been submitted that in the last ten years the persons mentioned have not committed a serious violation, i.e. repeated violation of the regulations governing the prevention of money laundering and terrorist financing. In the licensing procedure, evidence is submitted of non-conviction for criminal offences against the economy, property, legal

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<sup>24</sup> Law on General Administrative Procedure (RS Official Gazette, No 95/2018).

traffic, public order and official duty or justice, or for criminal offences of money laundering and terrorist financing, or for similar or comparable criminal offences in accordance with regulations of a foreign state, and/or for another criminal and/or punishable offence that makes the person unfit to perform the function. A statement is also submitted to determine whether the said persons are officials, members of an official's immediate family and close associates of an official in terms of the law governing the prevention of money laundering and terrorist financing, as well as a list of associates of these persons, with evidence of their non-conviction for the above criminal acts.

In case the submitted application is incomplete, the supervisory body shall submit a remedy request<sup>25</sup> to the applicant within 20 days from the day of receipt of the application. If the applicant does not submit a proper application even after the remedy request, the supervisory body may issue a decision on rejecting the application in accordance with the provisions of the Law on General Administrative Procedure, the *mutatis mutandis* application of which has already been discussed.

The supervisory authority shall decide on the application for a licence to provide services related to digital assets within 60 days from the date of receipt of a valid application.<sup>26</sup> The supervisory body makes a decision on granting a licence when it determines that all the conditions prescribed by the Law and by-laws of the supervisory bodies have been met. Otherwise, the supervisory authority denies the application for a licence to provide services related to digital assets.

After obtaining a licence from the supervisory authority, the service provider can perform only those activities and services that are directly related to digital asset services. Exceptions established by the Law are broker-dealer companies and market operators that can provide services related to digital assets after obtaining a licence from the supervisory authority for the provision of services related to digital assets, as well as banks that can provide the service of safekeeping and administration of digital assets for the account of users of digital assets only in the part of safekeeping of cryptographic keys and after the National Bank of Serbia determines that the conditions for providing that service<sup>27</sup> are met.

In the event of a change in the facts or circumstances based on which the decision was made to grant a licence to provide services related to digital assets, in accordance with the Law, the service provider is obliged to notify the supervisory authority without delay, as well as to submit to that body at the same time the changed documentation and data that were submitted with the application for the licence.<sup>28</sup> If there is an intention of the service provider to provide services related to digital assets that are not specified in the decision on granting a licence to that service provider, they are obliged to submit an application for a licence supplement. When deciding on the application for a licence supplement, the provisions of the Law and relevant by-laws which refer to deciding on the application for a licence shall apply.

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<sup>25</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

<sup>26</sup> Ibid.

<sup>27</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

<sup>28</sup> Ibid.



Companies that receive a licence from the supervisory authority may provide services related to digital assets in a foreign country through a branch or directly, with the prior consent of the supervisory authority.<sup>29</sup> In addition to evidence related to the fulfillment of organisational, personnel and technical requirements, as well as conditions related to the business reputation of the person who will manage the activities of the branch, i.e. direct provision of services related to digital assets in a foreign country, the service provider submits to the supervisory authority, among other things, evidence that the regulations of the foreign country in which they intend to establish a branch, i.e. to directly provide services related to digital assets, are in line with international standards in the field of prevention of money laundering and terrorist financing. It is determined whether the regulations of that foreign state regulate business with digital assets, i.e. licensing and supervision of providers of services related to digital assets. In addition to the above, a service provider from a foreign country that intends to provide services related to digital assets in the Republic of Serbia, must first obtain the appropriate licence from the National Bank of Serbia and/or the Securities Commission and establish a company based in Serbia. Otherwise, it will be considered that a foreign person is providing services related to digital assets in the Republic of Serbia without authorisation.

In the Republic of Serbia, several companies have applied for a licence to provide services related to digital assets, and these administrative procedures are still ongoing.<sup>30</sup>

### 3.2 Supervision in the Republic of Serbia

The National Bank of Serbia has been supervising providers of services related to digital assets in the area of prevention of money laundering and terrorist financing since 2018. Today, in accordance with the Law and the Decision on Detailed Conditions and Manner of Supervision over Virtual Currency Service Providers and Virtual Currency Issuers and Holders, the National Bank of Serbia supervises the entire operations of a company that has received a licence from the supervisory authority for the provision of services related to digital assets. Supervision determines the degree of compliance of operations with the legislation of the Republic of Serbia.<sup>31</sup> From the aspect of supervision over issuers and holders of virtual currencies, the subject of supervision is the identification of activities that could potentially lead to money laundering or terrorist financing.

Supervision is carried out directly (on-site) and indirectly (off-site)<sup>32</sup>. Indirect supervision of service providers is carried out throughout the year, namely: analysis of documentation, analysis of questionnaires for off-site supervision purposes and market analysis. In case of identified irregularities during off-site supervision, the National Bank of Serbia may conduct extraordinary on-site supervision over providers of services related to digital assets. Also, in case of suspicion that a legal entity, an entrepreneur or an individual is engaging in unauthorised provision of digital asset services, the supervisory authority may directly and

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<sup>29</sup> Ibid.

<sup>30</sup> Official data on 15 February 2022.

<sup>31</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

<sup>32</sup> Ibid.

indirectly verify whether that person provides services related to digital assets contrary to the provisions of the Law.

If the inspection determines that the person engages in unauthorised provision of digital asset services, the supervisory body shall issue a decision prohibiting the performance of these activities and at the same time impose a fine. In the event that the company and/or entrepreneur who has been banned, has not stopped unauthorised provision of services related to digital assets, the supervisory body makes a decision on unauthorised provision of services related to digital assets and submits it to the body responsible for keeping the register of business entities in order to initiate the procedure of forced liquidation, i.e. deletion of the company and/or entrepreneur from the register. By the same decision, the supervisory body imposes the measure of freezing all accounts of the company and/or entrepreneur until the initiation of the procedure of forced liquidation, i.e. deletion of the company/entrepreneur from the register.

In this regard, after conducting off-site supervision, the National Bank of Serbia has initiated a procedure against a number of persons who previously engaged in activities related to digital assets, with the aim of establishing facts and imposing measures on account of unauthorised provision of services related to digital assets.

On-site supervision is carried out based on the annual plan of on-site supervision in the premises of a specific service provider. During the supervision, the service provider is obliged to supply the persons conducting the supervision with all the required documentation and information for conducting the supervision, that is, access to all premises; a special room in which on-site supervision activities will be performed; data and documentation based on which compliance of the service provider's business with legal regulations is checked.

After the conducted supervision, the authorised persons are obliged to make a report on the performed supervision. The supervisory body shall submit the supervision report to the supervised entity, to which the entity may submit objections within 15 working days from the day when the report was delivered. In the event that the objections contain allegations related to the change of factual situation that occurred after the period in which the supervision was performed, the supervisory body will not accept the stated objections. If the verification of the allegations in the submitted objections establishes a factual situation significantly different from the situation stated in the report on supervision, a supplement to that report shall be made. Supplement to the report on supervision shall be submitted to the supervised entity within 15 working days from the day of submitting objections to the report.<sup>33</sup> If found that the objections of the supervised entity to the supervision report are not grounded, i.e. that they do not significantly affect the established factual situation, the supervisory body shall make an official note and submit it to the supervised entity.

If deficiencies or irregularities in the business of the supervised entity are determined in the supervision procedure, i.e. if it is determined that the supervised entity acted contrary to the Law and relevant regulations, the supervisory body shall take one of the following measures: issue a recommendation; send a letter of warning; issue orders and measures for the elimination of identified irregularities; or make a decision on revoking the licence for the

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<sup>33</sup> Law on Digital Assets (RS Official Gazette, No 153/2020).

provision of services related to digital assets. The supervisory body shall take one of the above measures based on the factual situation established in the supervision report. The supervisory body shall issue a decision on taking measures regulated by the Law. In the event that the supervisory authority determines that the supervised entity has acted in accordance with the imposed measures, further verification by the supervisory authority will either suspend the supervision procedure or take a new measure against that supervised entity.

In case it is determined in the supervision procedure that the supervised entity did not act in accordance with the Law, the supervisory body may impose a fine on that entity, as well as on the members of its management and its director. In addition to imposing fines, the supervisory authority may issue a decision to revoke the licence for the provision of services related to digital assets in cases prescribed by the Law. A notice of revocation of a licence to provide services related to digital assets is published on the website of the supervisory authority.<sup>34</sup>

#### 4 Regulation of digital assets in the EU

In 2020, the European Commission published a Proposal for a Regulation<sup>35</sup> that regulates issues related to digital assets. The Regulation is just one element of the Digital Finance Package,<sup>36</sup> which supports the EU's ambition for a recovery that encompasses the digital transition. The Regulation would regulate the area of digital assets in the European Union in a unique way. In addition to the Regulation, other important documents for regulating this area, of which the mentioned package consists, are: Digital Finance Strategy, Retail Payment Strategy, Proposal of the Regulation on Pilot Regime for Market Infrastructures Based on Distributed Ledger Technology (Blockchain Technology), as well as other proposals to regulate the financial sector.<sup>37</sup> When the Regulation enters into force, it will be applied by all countries that have the status of a member of the European Union.

A special regime for digital asset service providers has been adopted by several member states. However, in most member states, business activities related to digital assets are carried out outside any regulatory regime.

In the absence of a single regulatory system, companies that intend to provide services related to digital assets in several EU countries must comply with the regulations of the countries in which they intend to provide these services, i.e. must obtain more licences and comply with different regulations. This leads to high costs for economic entities that intend to provide services in the EU, and to the creation of financial barriers to market entry. This also

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<sup>34</sup> Ibid.

<sup>35</sup> Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937.

<sup>36</sup> Digital finance proposals, [https://ec.europa.eu/info/publications/200924-digital-finance-proposals\\_en](https://ec.europa.eu/info/publications/200924-digital-finance-proposals_en)

<sup>37</sup> Regulation of the European Parliament and the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, (2019), European Commission, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0593>

increases legal uncertainty, which, combined with the lack of a common EU framework, exposes consumers and investors to significant risks. In addition to these risks, the current situation in the EU is not conducive to market competition, consumer protection and financial stability of the market.

The introduction of a common EU regulatory framework will define unique business conditions for companies within the EU. At the same time, market integrity will be established and all participants will be provided with an appropriate level of protection and financial stability. At the same time, the adoption of the Proposal for a Regulation will contribute to the development of the cross-border digital assets market. All of the above is the principle of subsidiarity on which the Proposal for a Regulation is based. The second principle, important for understanding the above, is the principle of proportionality. Namely, the manner of overcoming the regulatory gap must take into account the size of the market to whose participants this regulation applies. In other words, the proposed rules in the Proposal for a Regulation are defined in such a way that the administrative burden and costs of economic operators intending to provide services related to digital assets are proportional to the specific and general objectives pursued. At the same time, the Proposal for a Regulation imposes stricter requirements for ‘stable’ virtual currencies, for which there is a certain higher probability of market participation, as well as risk levels for all market participants and the financial system.

The Proposal for a Regulation defines the categories of digital assets to which the said regulations would apply. The Proposal for a Regulation includes all types of digital assets, even those not covered by the legal framework applicable in the EU.<sup>38</sup> On the other hand, tokens that have the status of a security, or tokens that are considered shares or bonds are not regulated by this act. The categories of digital assets are:<sup>39</sup>

- Digital assets in general - a comprehensive category (e.g. bitcoin);
- Service tokens (e.g. Filecoin tokens);
- APT – Tokens related to funds;
- EMT – Electronic money tokens.

The last two categories of digital assets are ‘stable’ virtual currencies - they can be linked to a legal tender, such as the euro or the US dollar, or they can be linked to other types of goods or other virtual currencies. Their regulation is the responsibility of the European Banking Authority, which carries out the processes, first approvals and then supervision, all with the help of teams from the supervisory authorities of the member states.<sup>40</sup>

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<sup>38</sup> Regulation of the European Parliament and the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937, (2019), European Commission, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0593>

<sup>39</sup> Hensen, P., (2021), New Crypto Rules in the European Union – Gateway for Mass Adoption, or Excessive Regulation?, Stanford Law School, <https://law.stanford.edu/2021/01/12/new-crypto-rules-in-the-eu-gateway-for-mass-adoption-or-excessive-regulation/>

<sup>40</sup> Hensen, P., (2021), New Crypto Rules in the European Union – Gateway for Mass Adoption, or Excessive Regulation?, Stanford Law School, <https://law.stanford.edu/2021/01/12/new-crypto-rules-in-the-eu-gateway-for-mass-adoption-or-excessive-regulation/>

With regard to obtaining a licence to provide services related to digital assets, in some countries, such as Germany, there are already clear rules for obtaining a licence for certain services related to digital assets. Therefore, the rules defined by the Proposal for a Regulation in that case will supplement the previously adopted procedures for obtaining a licence. The Proposal for a Regulation also regulates possible manipulations on the market, as well as insider information for trading through platforms.

Given that great attention has been paid to the definition of the Proposal for a Regulation, there are indications that it will become a global standard for the supervision process, as well as the regulation of digital assets based on blockchain technology. By applying clearly defined rules and providing legal certainty in the long run, the European Union has the potential to attract a large number of investors from around the world.

#### 4.1 Licensing and supervision in Lithuania

Lithuania Lithuania is one of the member states of the European Union in which financial transactions with virtual currencies are allowed. In this country, the field of digital assets is viewed as a new direction of economic development, supported by the Bank of Lithuania. This is supported by the fact that in 2020, the Bank of Lithuania issued LBCOIN - the world's first digital collector token based on blockchain technology.<sup>41</sup> This project was implemented as part of the signed Act of Independence of the country, and on that occasion, 24,000 collector's tokens created with blockchain technology were issued.

The provision of services related to digital assets in Lithuania is regulated by the Law on Prevention of Money Laundering and Terrorist Financing. During 2020, amendments to this law were made.<sup>42</sup> With the changes, virtual currency exchange operators and virtual wallet deposit operators have become supervised entities in terms of preventing money laundering and terrorist financing.

The Financial Crime Investigation Service within the Ministry of the Interior of the Republic of Lithuania conducts the licensing and supervision procedure in the field of digital assets.<sup>43</sup> After obtaining a licence, the company is entered in the Lithuanian Business Register. In Lithuania, it is possible to obtain two types of licences to work with virtual currencies:

1. Licence for the exchange of virtual currencies, which includes: the exchange of virtual currencies for money or vice versa; exchanging one virtual currency for another; and the purchase and/or sale of virtual currencies at an appropriate commission as a fee for services rendered;<sup>44</sup>

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<sup>41</sup> LBCOIN – the World's First Digital Collector Coin. <https://www.lb.lt/en/digital-collector-coin-lbcoin>

<sup>42</sup> Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing. <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/2c647332ba5111eb91e294a1358e77e9?jfwid=-11vir839tn>

<sup>43</sup> Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania. <http://www.fntt.lt/en/>

<sup>44</sup> Ibid.

2. Licence for digital (crypto) wallet and services of safekeeping of virtual currencies of the user, including generation and safekeeping of encrypted keys of the user.

During the licensing process, the regulator has the right to request additional information and a detailed description of the proposed activities by the company that intends to provide services related to digital assets. The supervisory body decides positively on the application for a licence after determining the fulfillment of the conditions prescribed by the law. If, after obtaining the licence, there are changes in terms of ownership structure, member of the management body, authorised person for the prevention of money laundering and terrorist financing, etc., the licensed business entity shall notify the supervisory body, based on which the procedure of change in the register is carried out with the analysis of the prescribed documentation.

When applying for a licence to provide services related to digital assets, the company should be established as a limited liability company with a minimum share capital of 2,500 euros.<sup>45</sup> Submission of requests can also be done through a proxy. Along with the request, among other things, the company submits the following documentation:<sup>46</sup>

1. A valid copy of a passport issued by the home country;
2. Power of attorney - if the request for granting a licence is submitted through a proxy;
3. Business model of the applicant with a detailed description of all business activities;
4. Professional qualifications and work experience of members of the management body and participants in business activities;
5. Website address for the provision of services related to digital assets;
6. Certificates of no criminal record not older than 3 months for qualified owners, members of the management body, end users and designated person (officer) for prevention of money laundering;
7. Data on beneficial owners.

The designated person - the officer for the prevention of money laundering and terrorist financing must have appropriate work experience and business reputation (residence in Lithuania is not mandatory). The Financial Crime Investigation Service must be notified in writing of the appointment of the said person no later than 7 working days from the date of their appointment or replacement.<sup>47</sup>

The application for a licence is considered by the Financial Crime Investigation Service within 20 working days from the day of submitting the application.

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<sup>45</sup> Cryptocurrency Licence in Lithuania. <https://tet.lt/cryptocurrency-licence-in-lithuania/>

<sup>46</sup> Documents required for the application. <https://tet.lt/cryptocurrency-licence-in-lithuania/>

<sup>47</sup> Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania. <http://www.fnnt.lt/en/money-laundering-prevention/information-for-legal-entities-carrying-out-the-activities-of-virtual-currency-exchange-operators-and-or-depository-virtual-currency-wallet-operators-in-the-republic-of-lithuania/4115>

After obtaining the licence, the company is obliged to conduct a detailed and up-to-date review of all clients and transactions in accordance with the adopted rules for the prevention of money laundering and terrorist financing. Also, it is obliged to take measures and carry out the identification of clients and the beneficial owner, when performing transactions related to virtual currencies in the amount of EUR 1,000 or more, or the equivalent amount in foreign or virtual currency. Virtual currency exchange operators are obliged to inform the Financial Crime Investigation Service about client data and about performed transactions of virtual currency exchange or transactions in virtual currency, if the value of the transaction is EUR 15,000 or more, or this amount is equivalent to the amount in foreign currency or virtual currency<sup>48</sup>. All entities are obliged to apply measures to verify the client and the beneficial owner, not only to new clients but also to existing clients, given the level of risk, especially in case of new circumstances, i.e. the degree of risk posed by the client and beneficial owner.<sup>49</sup> Among other things, in order to fully comply with legal regulations, the company must establish internal procedures for the implementation of internal controls relating to:<sup>50</sup>

1. Identification of the client and the beneficial owner;
2. Risk assessment and risk management in accordance with the identified types of risk;
3. Business organisation and monitoring of business activities;
4. Implementation of international financial sanctions and restrictive measures;
5. Submission of reports and information to the Financial Crime Investigation Service;
6. Register keeping;
7. Preservation of data prescribed by law;
8. Updating data on identified customers and beneficial owners.

Companies that receive a licence to provide services related to digital assets, in accordance with the adopted regulations, are not entitled to provide financial and investment services. During 2021, based on the analysis of the market and the conducted supervision, the Bank of Lithuania has determined that Binance - the world's largest stock exchange for the exchange of virtual currencies, provides unauthorised investment services on the territory of Lithuania. The Bank of Lithuania has issued a warning to Binance and pointed out the need to harmonise

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<sup>48</sup> Other obligations in the field of prevention of money laundering and terrorist financing. <http://www.fntt.lt/en/money-laundering-prevention/information-for-legal-entities-carrying-out-the-activities-of-virtual-currency-exchange-operators-and-or-d> Resolution No 1017 of the Government of the Republic of Lithuania of 23 September 2015 on the implementation Financial Crime Investigation Service under the Interior of the Republic of Lithuania. of Council Directive 2011/16/EU of 15 February 2011 repository-virtual-currency-wallet-operators-in-the-republic-of-lithuania/4115

<sup>49</sup> Resolution No 1017 of the Government of the Republic of Lithuania of 23 September 2015 on the implementation of Council Directive 2011/16/EU of 15 February 2011.

<sup>50</sup> Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing. Internal control procedures of financial institutions and other obliged entities. <https://eseimas.lrs.lt/portal/legalAct/lt/TAD/2c647332ba5111eb91e294a1358e77e9?jfwid=-11vir839tn>

publicly available information with legal regulations, so that they do not create misconceptions.<sup>51</sup>

The Financial Crime Investigation Service supervises the activities of the Virtual Currency Exchange Operator and the Virtual Deposit Wallet Operator in the area of prevention of money laundering and terrorist financing. The supervisory authority provides instructions to obligors in order to prevent money laundering and terrorist financing, while employees of the Anti-Money Laundering Committee within the supervisory authority provide appropriate assistance to all obliged entities in implementing measures to prevent money laundering and terrorist financing.

Supervision is carried out on the basis of a defined supervision plan and a defined procedure for conducting supervision by the supervisory body. However, if off-site supervision reveals irregularities in the operations of a particular company, the supervisory authority may initiate an extraordinary supervision procedure, with the aim of determining possible deviations from the law, regardless of the previously defined supervision plan.

After the supervision and review of relevant data, the supervisory authority may decide to:<sup>52</sup>

1. issue obligatory instructions to the supervised entity;
2. impose sanctions determined by the law;
3. perform additional supervision.

If the supervision determines a deviation from the law, the supervisory body may also impose fines defined by the law. The decision on the suspension of the initiated supervision, i.e. the imposition of a sanction, is made by the supervisory body in the case:<sup>53</sup>

1. no irregularity was found during the supervision;
2. there are other conditions prescribed by the law;

Information constituting a state, official, business or other secret protected by law is the only evidence on which the imposition of a sanction is based and it is not known to the person who is subject to the sanction, or a third party's application to terminate the consideration of the imposition of the sanction has been received.

## 5 Regulation of digital assets in Japan

Japan is home to one of the world's largest virtual currency markets. Japan was among the first countries to regulate the digital asset market and, according to the Law on Payment

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<sup>51</sup> Bank of Lithuania issued warning regarding Binance, UAB and other crypto-asset service providers. <https://www.lb.lt/en/news/bank-of-lithuania-issued-warning-regarding-binance-uab-and-other-crypto-asset-service-providers>

<sup>52</sup> Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing. <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/2c647332ba5111eb91e294a1358e77e9?ifwid=-11vir839tn>

<sup>53</sup> Ibid.



Services, to recognise virtual currency as a legal tender. During 2017, 80% of transactions with virtual currencies were performed in Japan.

According to the law that regulates this area, a company that intends to perform the exchange process and provide services related to digital assets, must obtain a licence from the competent authority. The aim of introducing legislation in the field of digital assets in Japan is, above all, to ensure a high level of consumer protection, as well as to prevent money laundering and terrorist financing. The regulation of this market was aided by the fact that in the territory of Japan, during February 2014, the largest exchange of digital assets took place, i.e. the largest volume of transactions in relation to the world market.<sup>54</sup> In addition, during 2018, a cyber attack was recorded, which resulted in damage estimated at 530 million US dollars.<sup>55</sup> In the same year, a self-regulatory body was established - the Exchange Association, which drafts regulations regarding the exchange of virtual currencies. In addition to defining regulations, the Exchange Association also provides all the necessary support to the users.

In Japan, the Financial Services Agency conducts the licensing and supervision process in the field of digital assets. During 2018, it adopted the proposal of the Group for consideration of business activities related to the exchange of virtual currencies, which refers to the definition of a new legal framework for the regulation of digital assets.<sup>56</sup> The proposal of the new legal framework represents the amendments to the existing Law on Payment Services, which has been in force since 2009, as well as the Law on Financial Instruments and Exchange, which regulates this area. The legal changes came into force on 1 May 2020.

The key amendments to the Law on Payment Services are:

- Adoption of the digital assets term;
- Improving regulations in the field of digital asset custody services;
- Stricter regulations related to the licensing process of digital asset service providers.

Amendments to the Law on Financial Instruments and Exchange included the definition of prohibitions against fraud, spreading rumours, attacks or intimidation and manipulative acts in the market. The goal of defining these bans is to provide protection to users, as well as to prevent money laundering and terrorist financing. Also, regulations regulating digital assets transactions and regulations based on which it is possible to act in case of suspicious activities or criminal acts related to digital assets have been adopted.

The Law on Payment Services defines the services that a company can provide after obtaining a licence, which are:<sup>57</sup>

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<sup>54</sup> Lawrence, T. (2014). Virtual Currencies; Bitcoin & What Now after Liberty Reserve, Silk Road, and Tt. Gox? *Richmond journal of Law and Technology*, 20(4), 1-108.

<sup>55</sup> Mochizuki, T. & Vigna, P. (2018), Cryptocurrency Worth \$530 Million Missing From Japanese Exchange, *The Wall Street Journal*, available at: <https://www.wsj.com/articles/cryptocurrency-worth-530-million-missing-from-japanese-exchange-1516988190>

<sup>56</sup> Report from the Study Group on Virtual Currency Exchange Services, (2018), FSA, available at <http://strst.com/wp-content/uploads/2020/11/Cryptocurrency-Regulatory-Framework-in-Japan-1.pdf>

<sup>57</sup> Payment Services Act, (2020), Article 2, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

- Buying and selling digital assets, as well as exchanging one form of digital asset for another;
- Mediation in the purchase and/or sale of digital assets, or the exchange of one form of digital assets for another;
- Managing users' funds when buying and selling digital assets, as well as exchanging one form of digital asset for another and/or mediating when buying and/or selling digital asset, or exchanging one form of digital assets for another;
- Digital asset portfolio management in the name and on behalf of another person.

### 5.1 Licensing procedure in Japan

A company that fulfills the conditions prescribed by law, after obtaining the licence, will be entered in the register and recorded in the documents of the supervisory body.<sup>58</sup> Providing services related to digital assets in the territory of Japan without a prior licence from the supervisory authority is considered a criminal offence. Exceptions provided by law are joint stock companies or foreign digital asset service providers with branches in Japan. They may provide services prescribed by law without a prior licence from the supervisory authority.

When applying for a licence to provide services related to digital assets in Japan, the company should provide a minimum capital of 10 million yen. In addition, the company that intends to provide services related to digital assets, upon request provides the following information and documentation:

1. Business name and address information;
2. Proof of holding the minimum amount of prescribed capital;
3. Information on the appointed member of the managing authority;
4. Data on available funds;
5. Data on external associates;
6. Management system information;
7. System of internal controls and other data prescribed by the law.<sup>59</sup>

In addition to the above elements that are an integral part of the request, it is necessary to submit other documentation which primarily determines whether the applicant company intends to provide services related to digital assets in favour of money laundering and terrorist financing, documentation proving that there are no circumstances due to which the request would be rejected by the supervisory body, certificate of residence and non-conviction of appointed members of administrative bodies and persons with qualifying holding, data proving that these persons are not related to money laundering and terrorist financing, data on

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<sup>58</sup> Payment Services Act, (2020), Article 63-2, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>59</sup> Payment Services Act, (2020), Article 63-3, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

professional qualifications and biographies of members of the management body, data on the list of shareholders if it is a joint stock company, financial reports proving the success of the company, data on the characteristics of the established information system for providing these services, with a certificate of its safety of use, an organisational chart with clearly divided tasks and responsibilities, information on internal business rules, and a draft contract that will be used when concluding deals with users.

During the evaluation of the submitted documentation, the supervisory body checks the compliance with applicable laws and regulations. In addition, by order of the supervisory body of the Financial Services Agency, the company that applies for a licence to provide services related to digital assets fills out a list of approximately 400 questions, based on which it can be determined whether a particular company actually owns adequate systems for performing activities related to digital assets.

## 5.2 Supervision in Japan

Companies licensed to provide these services should take all necessary measures to ensure that the security of the system of prevention of money laundering and terrorist financing is at the highest level,<sup>60</sup> as well as to provide the prescribed protection of the user<sup>61</sup>, and to manage the user's assets in the prescribed manner.<sup>62</sup> Also, a licensed company has the obligation to establish systems through which it will respond as soon as possible to complaints submitted by users, as well as to effectively implement measures in case of possible disputes.<sup>63</sup> Among other things, a company that has received a licence to provide services related to digital assets, is obliged to keep up-to-date business books,<sup>64</sup> publish financial reports and reports of public accountants and auditors.<sup>65</sup>

In the event that companies that received a licence from the supervisory authority do not operate in the manner prescribed by the law, the supervisory authority or the Financial Services Agency, in accordance with the supervisory function, reserves the right to issue a warning in order for them to comply with the law and adequately apply the regulations.<sup>66</sup>

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<sup>60</sup> Payment Services Act, (2020), Article 63-8, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>61</sup> Payment Services Act, (2020), Article 63-10, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>62</sup> Payment Services Act, (2020), Article 63-11, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>63</sup> Payment Services Act, (2020), Article 63-12, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>64</sup> Payment Services Act, (2020), Article 63-13, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>65</sup> Payment Services Act, (2020), Article 63-14, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

<sup>66</sup> Payment Services Act, (2020), Article 63-14, Japanese Law Translation, available at: <http://www.japaneselawtranslation.go.jp/law/detail/?id=3966&vm=02&re=02>

Compared to other developed economies, the rates of money laundering and terrorist financing in Japan are very low. Japan has adopted regulatory and supervisory measures implemented in the case of identified crimes related to the use of virtual currencies, as well as measures implemented in the case of identified activities related to the risk of money laundering and terrorist financing. On the other hand, in Southeast Asia, the threat of terrorist financing has increased, so a sector has been formed that operates not only nationally, but also internationally, with the goal to understand and monitor the country's vulnerability in terms of terrorist financing.

In December 2013, Japan adopted a Strategy to make the country “the safest country in the world”, on the occasion of the Olympic and Paralympic Games held in Tokyo. The strategy included a set of actions aimed at improving security levels, including counter-terrorism and anti-money laundering measures, largely based on the results of the 2008 FATF peer review.

The Financial Services Agency performs the function of supervising money laundering. In exceptional cases, in addition to the Agency, some ministries are included, such as: the Ministry of Health, Labour and Social Welfare, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Economy, Trade and Industry, and the Ministry of Land, Infrastructure, Transport and Tourism.<sup>67</sup> For the first time in Japan, preventive measures against money laundering were adopted in 2007, but due to the observed shortcomings, they were revised in 2011 and 2014. Additional measures were related to the mandatory identification of beneficial owners, as well as a thorough review of contracts concluded with countries where the level of these risks is high. In February 2018, guidelines for a better understanding of money laundering risks were adopted, which came into force a year later. The Financial Services Agency has delegated part of the authority to local financial bureaus, which can perform one part of supervision.

Japan is continuously working to improve the protection of users involved in digital asset-related transactions. Companies that have received a licence to provide these services are obliged to periodically submit to the supervisory authorities the prescribed reports, which prove compliance with the law and good business practices, especially in the prevention of money laundering and terrorist financing.

Some of the key activities in the implementation of on-site and off-site supervision by the Financial Services Agency in Japan are:<sup>68</sup>

- Establishment of procedures and policies, based on which the annual plan of on-site/off-site supervision is implemented and determines the manner of its implementation;
- Market analysis in order to identify economic entities that provide services related to digital assets and are not registered with the Financial Services Agency;

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<sup>67</sup> FATF (2021), Anti-money laundering and counter-terrorist financing measures – Japan, Fourth Round Mutual Evaluation Report, FATF, Paris, available at: <http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-Japan-2021.html>

<sup>68</sup> FATF (2021), Anti-money laundering and counter-terrorist financing measures – Japan, Fourth Round Mutual Evaluation Report, FATF, Paris, available at: <http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-Japan-2021.html>

- Periodic collection of information on the presence of inherent risks in the digital assets market;
- Increased supervision of established internal controls and governance systems of obligors, especially bearing in mind that during 2018, Japan was the victim of a major hacker attack.

There are currently 30 licensed companies in Japan that provide services related to digital assets, i.e. that have harmonised their operations with legislation.<sup>69</sup>

## 6 Regulation of digital assets in the USA

The main feature of the US regulatory framework is its fragmentation, i.e. the absence of unified regulations at the federal level. The activity of a large number of regulatory bodies is noticeable, such as the Securities Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, and the Treasury. Also, the Office of Internal Revenue, the Office for the Control of Virtual Currencies, and the Network, whose primary goal is to combat financial crime in the USA,<sup>70</sup> should not be left out.

The competences of these institutions differ, and in order to consider their specific contribution, i.e. participation in the establishment of rules at the federal level, some of them will be presented below.

### 6.1 Competence of supervisory authorities in the USA

Supervision of options, futures, swaps and other contracts that affect the price of virtual currency is the responsibility of the Commodity Futures Trading Commission. Supervision is carried out in accordance with the Law on Trade. Surveillance includes identifying and determining attempts to manipulate digital assets. The Commodity Futures Trading Commission enjoys increasing authority in practice, and the reason for this is the existence of futures contracts whose elements are closely related to the price of bitcoin.

The entire supervision over the issuance and sale of tokens is held by the Securities Commission. The supervisory function is conducted in accordance with the Law on Securities. The Securities and Exchange Commission filed lawsuits against two companies - Telegram and Kik, for which there was an indication that they would violate the legal regulations related to digital assets. Telegram appropriated 1.7 billion dollars by selling virtual currencies worth

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<sup>69</sup> List of Registered Crypto-asset Exchange Service Providers in Japan. (2021). FSA, available at: [https://www.fsa.go.jp/en/regulated/licensed/en\\_kasoutuka.pdf](https://www.fsa.go.jp/en/regulated/licensed/en_kasoutuka.pdf)

<sup>70</sup> CFTC Backgrounder on Oversight of and Approach to Virtual Currency Futures Markets, (2018), U.S. Commodity Futures Trading Commission, [https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/backgrounder\\_virtualcurrency01.pdf](https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/backgrounder_virtualcurrency01.pdf)

2.9 billion dollars.<sup>71</sup> The case of these two companies has greatly hindered trade and the involvement of a large number of investors in the US market.

The Financial Crime Suppression Network, as the supervisory body, regulates the provision of services related to virtual currencies based on the provisions of the Law on Banking Secrecy. The provision of services related to virtual currencies requires a detailed risk assessment, primarily the risk of money laundering. The assessment of this risk is carried out in the manner defined by the Risk Assessment Program. The Financial Crime Suppression Network requires that the regulations governing this area be reasonably designed<sup>72</sup> to include elements of the development, implementation and future maintenance of virtual currency-related services.

The Office of Foreign Assets Control, which operates within the Ministry of Finance, administers and implements economic sanction programs primarily against countries and groups of individuals, such as terrorists and drug traffickers. (e.g. blocking assets and trade restrictions to achieve foreign policy and national security goals).

Although a large number of institutions is involved in the regulation of digital assets in the USA, a relatively small number of formal rules has been adopted at the federal level.

## **6.2 Differences in the adopted regulatory approach across countries**

Some countries in the United States have adopted legal regulations that regulate the issue of virtual currencies. The regulations exclude virtual currencies from the applicable legal regulations relating to other securities and the regulations relating to the transfer of money. One example is the practice of the state of Wyoming, which adopted a law that regulates the establishment of new types of commercial banks or special purpose deposit institutions.<sup>73</sup> The operations of these institutions are focused exclusively on virtual currencies. Through their operations, these institutions have a positive impact on the work of companies operating in this country, providing them with security in the safekeeping of digital assets. Special purpose deposit institutions are also represented in New York and Nevada.

Colorado has passed a law exempting virtual currencies from all state-level securities regulations. In addition, Ohio is the first state in the USA to adopt virtual currency taxation, while Oklahoma regulates virtual currency trading. Also, in this country, virtual currencies are accepted as a payment instrument within state-owned agencies.

Contrary to the great changes that have been made in the legislation of the mentioned US states, in as many as 10 states the authorities have issued warnings regarding the risk of

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<sup>71</sup> Dewei, I., (2022), Blockchain & Cryptocurrency Laws and Regulations 2022 in USA, Global Legal Insights, <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/usa>

<sup>72</sup> Customer Advisory: Understand the Risk of Virtual Currency Trading, CFTC, [https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/understand\\_risks\\_of\\_virtual\\_currency.html](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/understand_risks_of_virtual_currency.html)

<sup>73</sup> Dewei, J. (2022), Blockchain & Cryptocurrency Laws and Regulations 2022 in USA, Global Legal Insights, <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/usa>

investing in digital assets, and a draft law was presented in Iowa, which would ban all payments in virtual currencies within the business of state bodies.

In California, a bill that would regulate the area of digital assets was sent for consideration in June 2014. However, due to different views of MPs regarding the provisions of the law, it was not adopted. Today, the authorities in California are working on creating a proposal for a new law, and as a “guiding idea” for its definition, they use the rules adopted in New York for obtaining the BitLicense. Establishing regulations in the field of digital assets in California would have a great impact, especially considering that the headquarters of many large companies are located in this country. These are just some of the examples: Coinbase, Kraken, Airbitz, Blockstream, BTCjam, ChangeTip and Pantera Capital.<sup>74</sup>

The situation is somewhat similar in Washington, where during 2014 a working group for payments was formed with the aim of creating a regulatory framework for virtual currencies.<sup>75</sup> With the support of supervisors and state-owned banks, the proposed regulatory framework defines activities that include oversight of third-party activities, as well as the transfer, exchange and safekeeping of digital assets. Under Washington state law, virtual currencies are a medium of exchange.

In Florida, the Law on Virtual Currencies was adopted in May 2017. This law defines virtual currency as a medium of exchange in electronic or digital format, i.e. as money that is not a legal tender. With the enactment of the law, strict supervision over money laundering and terrorist financing activities connected to virtual currencies has been established. In accordance with the provisions of the Law on Virtual Currencies, individuals who acted contrary to the law and the supervision determined that they own digital assets will be charged with money laundering.

Arizona has adopted a law that supports the use of blockchain technology during the performance of activities related to digital assets. In March 2017, the law came into force, with special attention being paid to the ability of technology to record all data and store it in electronic form.<sup>76</sup> Also, a committee has been established in this country to study the functioning of blockchain technology.<sup>77</sup>

Based on the above, it can be concluded that the regulatory regime in many US countries is still insufficiently defined. On the other hand, in states such as North Dakota, Illinois and Nevada, great efforts are still being made to define rules to regulate the field of digital assets. For that reason, many companies that intend to provide services related to digital assets are waiting for the adoption of regulations at both the federal and state levels. Due to the lack of

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<sup>74</sup> Hughes, S., (2017), Cryptocurrency Regulations and Enforcement in the U.S., Western State University Law Review Association.

<sup>75</sup> State Regulatory Requirements for Virtual Currency Activities, (2015), Conference of State Banks Supervision, <https://www.csbs.org/regulatory/ep/Pages/framework.aspx>

<sup>76</sup> Legiscan, Arizona House Bill, (2017), <https://legiscan.com/AZ/text/HB2417/2017>

<sup>77</sup> Morton, H., (2021), Cryptocurrency 2021 Legislation, NCSL, <https://www.ncsl.org/research/financial-services-and-commerce/cryptocurrency-2021-legislation.aspx>

established regulations, several companies decided to leave the US market. Some of the examples are: Ethereum, ShapeShift and BitMEX.<sup>78</sup>

### 6.3 Licensing and supervision in the USA

The conditions that need to be met in the process of licensing, i.e. obtaining a licence to provide services related to digital assets vary from state to state, almost each of them having its own specific requirements.<sup>79</sup> Differences in conditions and requirements can lead to confusion and reduced efficiency in performing supervisory activities. One of the potential solutions to this problem is the adoption of licensing rules at the federal level, which would especially help companies whose business network is spread across several states.<sup>80</sup> Currently, a company with a wide business network, which does intend to operate in the US digital assets market, would have to submit the required documentation in each state separately.

Companies intending to apply for digital asset-related services first consider which licence to obtain in order for the business to comply with legal regulations. In case the company intends to operate as a service provider in transactions in which virtual currencies will be converted into a means of payment, it is necessary to obtain a licence to transfer money. On the other hand, if a company intends to act as an intermediary in transactions involving the conversion of one virtual currency into another, it is necessary to obtain a licence from a company that provides money transfer services. Despite the aforementioned fragmentation of the US regulatory framework, a company that intends to operate in the US digital assets market is required to take certain actions, regardless of which state it applies to obtain a licence from:

- Registration with the US Treasury Department - registration is renewed every two years;
- Filling in the list of agents;
- Regular reporting to the supervisory authority on suspicious transactions;
- Adherence to the provisions of the adopted policies against money laundering and terrorist financing;
- Creating a report listing all transactions worth more than 10,000 dollars;
- Regular monitoring of the latest information on money transfers;
- Adherence to the prescribed rules when transferring funds;
- Regularly kept records of the virtual currencies being converted;
- Creating other types of prescribed reports.

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<sup>78</sup> CFTC Charges BitMEX Owners with Illegally Operating a Cryptocurrency Derivatives Trading Platform and Anti-Money Laundering Violations, CFTC, <https://www.cftc.gov/PressRoom/PressReleases/8270-20>

<sup>79</sup> Licensing the Activity of Cryptocurrency Exchange in USA, Law & Trust international, (2018), <https://lawstrust.com/en/licence/finance/crypto-license/usa#:~:text=License%20for%20cryptocurrency%20exchange%20in,its%20is%20sufficiently%20patient%20process>

<sup>80</sup> OCC Summary of Comments and Explanatory Statement: Special Purpose National Bank Charters for Financial Technology Companies, Office of the Comptroller of Currency, (2017), <https://www.occ.gov/topics/responsibleinnovation/summary-explanatory-statement-fintech-charters.pdf>



The aforementioned rules also apply to non-residents who exchange virtual currencies in the USA.

New York is the state with the most rigorous licensing rules. However, it is also a state in which it is possible to obtain a licence to provide services related to digital assets by establishing a limited liability company. A detailed licensing process in New York will be presented below.

The licensing process begins with the application of a specific company to obtain a BitLicense in accordance with the New York Banking Act. The Financial Services Department uses the National Licensing and Multi-State Registry System to manage BitLicense. The procedure is carried out online and the system is very reliable and secure. This application was created by the state regulatory bodies with the aim of increasing the level of efficiency in issuing licences, as well as improving the supervision process.<sup>81</sup>

When applying, it is necessary to compile in writing an application for a licence, which should contain the following elements:<sup>82</sup>

- Accurate information on the applicant, organisation chart, date of incorporation of the company and information on the jurisdiction where it was established;
- List of all branches in which services will be provided, as well as a graphic presentation of the organisational chart;
- Data on persons appointed as members of the management body and qualified owners. Data needs to be provided on other employees as well;
- A report prepared by an independent agency stating who will supervise the activities performed by the employees;
- For all persons who are in any way connected with the applicant, it is necessary to submit fingerprints and two photographs;
- Description of the organisational structure, with a defined division of competences and responsibilities within the organisational scheme;
- Prescribed financial statements;
- A description of the proposed, current and pre-licence operations, including details of the products and services provided and to be provided;
- Data on banks with which the applicant has opened accounts;
- Policies and procedures applied in the current business, as well as those whose implementation will begin in the future;

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<sup>81</sup> Department of Financial Services, New York State, Virtual Currency, available at: [https://www.dfs.ny.gov/apps\\_and\\_licensing/virtual\\_currency\\_businesses/information\\_applicants](https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/information_applicants)

<sup>82</sup> New York Codes, Rules and Regulations Title 23 - FINANCIAL SERVICES Chapter I - Regulations of the Superintendent of Financial Services Part 200 - VIRTUAL CURRENCIES Section 200.4 – Application, JUSTIA regulations, available at: <https://regulations.justia.com/states/new-york/title-23/chapter-i/part-200/section-200-4/>

- Statement of acceptance of responsibility for the provision of services related to virtual assets;
- Verification of the written policy and procedure by the Department of Taxation and Finance of the State of New York that the applicant has accepted the legal provisions, as well as the provisions relating to the conduct of the supervision process;
- A copy of any insurance policy held for the benefit of the applicant, appointed members of the management body, officials or their clients;
- Detailed explanation of the methodology used to calculate the value of virtual currencies;
- Other information that may be required of the applicant.

After the documentation is submitted, the supervisory body may make a decision on issuing a conditional licence. A conditional licence is issued if the applicant does not meet all the prescribed conditions for obtaining a licence or if there is a reasonable suspicion that the licence holder will perform activities related to money laundering and terrorist financing, which automatically makes them the subject of increased supervision. Conditional licences last for two years from the date of issue.<sup>83</sup>

Services related to digital assets which an economic entity can provide after obtaining a licence in the territory of New York are as follows:<sup>84</sup>

- Receiving virtual currencies for transfer to third parties;
- Safekeeping, holding and managing virtual currencies on behalf of users;
- Buying and selling virtual currencies;
- Exchange of one virtual currency for another;
- Management, administration or issuance of virtual currency.

Applicants should first and foremost assess the risks to which they are or may be exposed in their business. The most significant are legal risks, business compliance risks, financial, reputational risks, risks related to other business activities, services, clients, partners and geographical area of business. Licensed economic entities are obliged to perform risk assessment on an annual basis and, if necessary, modify the adopted Anti-Money Laundering Program. This Program contains the following information:<sup>85</sup>

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<sup>83</sup> New York Codes, Rules and Regulations Title 23 - FINANCIAL SERVICES Chapter I - Regulations of the Superintendent of Financial Services Part 200 - VIRTUAL CURRENCIES Section 200.4 – Application, JUSTIA regulations, available at: <https://regulations.justia.com/states/new-york/title-23/chapter-i/part-200/section-200-4/>

<sup>84</sup> NY Virtual Currency Business Activity License New Application Checklist (Company), (2020), NMLS, available at: [https://nationwidelicensingsystem.org/slr/PublishedStateDocuments/NY\\_Virtual\\_Currency\\_New\\_Application\\_Checklist.pdf](https://nationwidelicensingsystem.org/slr/PublishedStateDocuments/NY_Virtual_Currency_New_Application_Checklist.pdf)

<sup>85</sup> New York Codes, Rules and Regulations Title 23 - FINANCIAL SERVICES Chapter I - Regulations of the Superintendent of Financial Services Part 200 - VIRTUAL CURRENCIES Section 200.15 - Anti-money laundering program, JUSTIA regulations, available at: <https://regulations.justia.com/states/new-york/title-23/chapter-i/part-200/section-200-15/>

- Defined systems of internal controls, policies and procedures created in accordance with the legislation of the State of New York;
- Defined conditions in which testing the compliance and effectiveness of the Anti-Money Laundering Program is performed;
- Data on appointed persons who will monitor the implementation of the Anti-Money Laundering Program on a daily basis;
- Data on training of employees who will perform activities in accordance with the Anti-Money Laundering Program.

Licensed companies are required to continuously monitor all transactions based on the provision of services related to digital assets. In this regard, special attention should be paid to suspicious transactions, i.e. transactions related to money laundering and terrorist financing. User identification is performed in case the value of the transaction is higher than 3,000 dollars.

From the beginning of 2016 to the end of 2018, as many as 22 companies submitted the required documentation for obtaining a licence to provide services related to digital assets. However, out of the total number, only three fulfilled all the conditions prescribed by legal regulations. These are the companies: Coinbase, Ripple and Circle. Coinbase is a virtual exchange office based in San Francisco. Clients of this exchange office are free to buy and sell virtual currencies. Coinbase had over five million users worldwide. Specifically, in the USA, this company is licensed to operate in as many as 38 states, including New York.

The manner of conducting supervision and checking the compliance of business with the defined rules in the territory of the USA differs from state to state. When supervising money laundering and terrorist financing, the established Anti-Money Laundering Program defined in the territory of the USA is especially checked, which each obligor must document with the following data:

- A detailed development plan and implementation of procedures, as well as supervision designed in a way that achieves a high level of efficiency in detecting suspicious activities;
- Information on the responsibilities assigned to officers who will monitor the level of compliance with adopted policies and procedures;
- Data on provided educational programs and workshops;
- Data on the engagement of independent auditors who regularly monitor the Anti-Money Laundering Program.

During the supervision, the supervisory body checks the compliance of all the above data with the regulations.

## **7 Conclusion**

The global presence of digital assets and the accelerated growth of the market require continuous monitoring of new phenomena and challenges. That is why many countries around the world have started regulating this area. The goal of regulators is to establish legislation that will contribute to security in virtual currency business.

As mentioned above, since 2018, the National Bank of Serbia has been conducting regular supervision over providers of services related to digital assets in the area of prevention of money laundering and terrorist financing. With the application of the Law on Digital Assets, this area is completely regulated in our country. Among other things, this Law and the relevant by-laws regulate the conditions and procedure for granting a licence for the provision of services related to digital assets. Companies that meet all the legally prescribed conditions may operate in the territory of the Republic of Serbia, i.e. provide services related to digital assets.

The analysis of regulatory approaches in the EU, Japan and the USA reveals significant differences. Japan, as well as the Republic of Serbia, established clear regulations based on which the licensing and supervision procedure is conducted, which enables smooth functioning of the digital assets market and ensures security when buying, selling, transferring or exchanging virtual currencies. On the other hand, the EU and US markets are characterised by the absence of unique rules regarding licensing and supervision. The establishment of unified rules will facilitate and improve existing supervisory systems and simplify the licensing process for companies that intend to provide digital asset-related services in the EU or the USA.

Digital assets bring new challenges to a country's financial and monetary system and therefore require monitoring and special attention from regulators. In order to maintain stability and security in the business of virtual currencies in the long run, it is crucial to harmonise rules at the global level and to exchange experiences between regulators.

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