



6th Edition of the Blockchain & Digital Assets Forum

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Thank you to Nacho Cardero and El Confidencial for having us. It is a pleasure to participate, another year, in this series of conferences that are slowly gaining importance and relevance. I will try to be brief, as today's agenda is quite long.

We are currently undergoing an intense process of digital innovation that brings us closer to what some are already calling the fourth industrial revolution. It is a major shift that will undoubtedly help us to face the economic, environmental and social challenges ahead.

The development of artificial intelligence (AI) over recent years, thanks to in-depth learning and the latest generative models, is perhaps the most disruptive innovation, given its cross-cutting nature (impacting all economic sectors) and its transformative power, which many compare to the introduction of electricity during the second industrial revolution.

AI techniques have been applied in equity markets for years, but recent developments, supported by massive use of data and new computational capabilities, will undoubtedly change market dynamics significantly. The fact of the matter is that we still do not have a proper understanding of the effects, biases and implications of such innovations, whether regarding, for example, price formation, market integrity or the manifestation of new risks.

As a supervisor, we have an obligation, on the one hand, to facilitate innovation and the use of new technologies. We are doing so by remaining neutral technologically, which means not having, *a priori*, preferences for specific technologies. Nonetheless, on the other hand, we have an obligation to pay close attention to the new risks that it may cause, how it may change agents' dynamics and, on that basis, assess the most appropriate response to such risks.

In other words, our aim is to promote innovation while maintaining confidence in the effectiveness of the rules of the game across different markets. As history has taught us, without rules or regulations, innovation and technology may cause unwanted effects that require correcting.

For years now, the CNMV has been proactive in understanding and appreciating the new entrepreneurial environment¹. There is, since 2016, an innovation hub in place, known as the fintech portal, through which we have supported more than 400 projects. And in 2020, we launched a sandbox, the testing space with the Bank of Spain and the Spanish Ministry, which allows to test specific projects in a controlled space. We will have signed eleven test protocols² over three years, seeing a very positive overall assessment. The sandbox is not a project incubator or accelerator, as this does not pertain to our role, but rather a space to assess in a practical way the regulatory implications of the project and to detect areas for improvement.

Bearing this in mind, over the next few minutes I would like to dive into the regulation of two relevant technological developments: distributed ledger technology (DLT) and crypto-assets.

Distributed Ledger Technology

Significant progress is taking place in DLT. The new Spanish Securities Market Law allows the representation of financial instruments with DLT. This means that transferable securities, such as assets or bonds, can already be represented by such technology, in addition to the traditional securities and book entries. Therefore, transfer of securities in DLT systems have the same effect of a legitimate transfer, which implies it has the necessary legal guarantees to constitute a transfer of financial instruments. The record of such issue is kept directly on the blockchain.

That said, providing it with additional guarantees is required. Thus, issues represented in DLTs must be backed by an entity responsible for managing the system, an investment and service company or a bank, that may provide custodian services. It is protective use of such technology, which, different to the decentralised model of cryptocurrencies such as bitcoin, is centralised in supervised entities.

However, beyond mere registration, DLT can bring great value to negotiation. The use of what are known as smart contracts allow the execution and settlement of orders to be immediate, instantaneously, providing the benefits and savings in guarantees that it entails. This leads, in practice, to a level of disintermediation of operations. Moreover, processes and contingencies are automated, besides having the potential to attract new investors.

There are currently no regulated trading platforms with such technology. To make this a reality, a European Regulation, creating a specific pilot regime covering the entire DLT trading and settlement process, came into force the past month of March.

¹ [CNMV - Financial innovation](#)

² Three protocols are expected to be formalised during the first two weeks of November.

I will not go into the details explaining the pilot Regulation. Applications to develop DLT platforms under such testing regime may be initially submitted upon the coming year.

Nonetheless, I would like to point out that the sandbox space, which I mentioned earlier, has proved to be very useful to test projects that are likely to apply for said pilot regime. The CNMV has been working thoroughly over more than a year to properly understand these infrastructures, as business models are very diverse. In fact, there are currently six projects in the sandbox to operate market infrastructures under such DLT pilot regime, each one with its own characteristics. One of them holds a private blockchain, with access through intermediaries, specialising in UCIT holdings. The others use public networks, whether licensed or not, with different access features.

Many questions still remain unanswered, but there is no doubt that we have a few interesting years ahead of us to assess the efficiency and usefulness of DLT technology in the markets. The pilot regime takes place over a long timeline, as we are talking about years, with mid-term reviews and the possibility of an extension, but it is necessary. If projects move forward and generate an interest, other challenges such as the interconnection of such platforms will need to be addressed. There is still a long road ahead, but we are moving in the right direction.

Crypto-assets and MiCA

The second area I would like to address is in relation to crypto-assets. The MiCA Regulation, a European regulation for the issue of crypto-assets and activities of crypto-asset service providers, was approved four months ago. Nonetheless, three major precautions should be applied in this area.

The first one is that there is still a year to go for the MiCA regulation to come into force and investing in crypto-assets is still not regulated, as said regulation shall be applicable after 31 December 2024.

Until then, the only regulation in place, beyond the registry of the Bank of Spain, is the CNMV's monitoring of advertisements and advertising campaigns related to crypto-assets offered as an investment purpose. I am referring to the CNMV's Circular 1/2022, a frontrunner in this area³, which requires the inclusion of warnings on advertisements stating that the entire investment may be lost and that they may not be qualified to be a retail investor. This implies that it is a high-risk product without any applicable investor-protection mechanisms. We have been making such warning since 2018. After more than a year and a half since said Circular's approval, I believe that we are achieving, in general, the set objectives. We have inspected over

³ CNMV Circular 1/2022, of 10 January, on the advertising for crypto-assets for investment purposes. Authorised by Article 240 bis of the recast text of the Spanish Securities Market Law, currently Article 247 of the Securities Markets and Investment Systems Law.

1300 advertisement spots and have sent almost 200 requests for information. Thus, our supervisory activity is active.

The second precaution I would like to highlight is that, even after the MiCA Regulation comes into force, on 1 January 2025, there will be an additional transition period of up to 18 months, lasting to July 2026, during which unauthorised operations may take place.

This can lead investors to confusion. There may be, during said transitional period, entities authorised under MiCA, and therefore under our supervision, operating simultaneously with unregulated entities, which will be able to continue to do so as usual. On the other hand, countries with a national system in place similar to that of MiCA may establish a simplified authorisation regime.

This is obviously not an ideal scenario, implying the need to structure the necessary measures for investors to be aware when they are operating with an authorised or unauthorised provider.

In the case of Spain, the Ministry of Economy and Digital Transformation has stated its intention to reduce said transitional period to 12 months, as per the recommendation made by ESMA⁴. This will allow to reduce the risk of creating confusion, while giving enough time to properly process authorisation applications that may be placed. Notwithstanding, this will be a complex period of time.

I would like to take the opportunity to ask those who wish to provide investment services related to crypto-assets to actively participate in regulatory consultations, as well as to prepare in advance, leaving enough time to process their authorisation.

For our part, we will carry out any actions needed to make the process clear and transparent. In order to provide the investor the highest guarantees and protection, the process cannot be instantaneous.

MiCA is not going to be a joy ride. The intrinsic features of crypto-assets as investment purposes remain the same, not having the same guarantees as those held by a financial instrument. While we are still to see the demand it may have and the sector's level of development,

having a homogeneous EU framework, with shared interpretation criteria, will be positive. I am referring to, for example, criteria to determine the distinction between crypto-assets that are financial instruments (and therefore marketable securities, as debt or share, to which MiFID applies) and those that are not, to which MiCA may apply. There also is the distinction between products that fall outside the MiCA, such

⁴ [ESMA encourages preparations for a smooth transition to MiCA \(europa.eu\)](#) [ESMA encourages preparations for a smooth transition to MiCA \(europa.eu\)](#)

as non-fungible crypto-assets (NFTs) in which casuistry is broad. Additionally, there is criteria to define the scope of decentralised finance which, in principle, falls outside MiCA. There are currently an estimated 40 billion dollar blocked in DEFI⁵ protocols, far from the maximum figures of a few years ago, but some of these protocols may not qualify as fully decentralised. The criteria are being defined as we speak.

Final considerations

I will end by saying I am sure that we have an exciting period ahead of us in relation to digital innovation. The potential of many of the new technologies, such as DLT, is yet to be defined, and the implications and effects of many of these innovations are not yet known. In the field of crypto-assets, we are entering into a complex stage during which we cannot lower our guard. That is why, as supervisors, we have to be proactive and critical at the same time, which we will continue to do. The aim is to facilitate innovation while maintaining confidence in the rules of the game. I can assure you that we will continue to strive to achieve this ultimate goal.

⁵ <https://defillama.com/>