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Entry into force of the Independent Whistleblower Protection Authority

On 12 August, Order PJC/908/2025 was published in the Official State Gazette (BOE), establishing 1 September 2025 as the date on which the Independent Whistleblower Protection Authority (“**AAI**”) will become operational.

This decision allows the AAI to begin its activities and marks not only the start of its supervisory and sanctioning powers over the parties required to comply with the regulation – as a general rule, this includes all companies operating in Spain with 50 or more employees – but also sets a deadline of 1 November for communicating the appointment and dismissal of those responsible for each internal reporting system.

1. FUNCTIONS OF THE AAI

Article 23 of Law 2/2023 of 20 February (“**Law 2/2023**”), which regulates the protection of persons who report regulatory infringements and the fight against corruption, and which has been in force since March 2023, establishes in general terms the functions of the AAI:

- i) Managing the external communication channel provided for in Law 2/2023;
- ii) Adopting the measures for the protection of whistleblowers provided for within its sphere of competence;
- iii) Issuing obligatory reports on preliminary drafts and drafts of general provisions that affect its sphere of competence and the functions it performs;
- iv) Fostering and promoting a culture of information;
- v) Processing disciplinary proceedings and imposing the appropriate penalties in the event of a breach of the provisions of Law 2/2023, which may involve the imposition of financial penalties of up to 300,000 euros in the case of natural persons and 1,000,000 euros in the case of legal persons.

2. DEADLINES AND TRANSITIONAL REGIMEN

Article 8.3 of Law 2/2023 requires the appointment and dismissal of the head of the internal information system to be notified to the AAI within ten working days.

Notwithstanding the above, since the AAI had not yet begun to operate at the time of the adoption of Law 2/2023 or its operating statute – Royal Decree 1101/2024, of 29 October (the “**Statute**”) – the latter provision established that, as soon as the AAI began its activity, the appointments and dismissals of natural persons and members of the collegiate body who had been designated as responsible for the internal information system since Law 2/2023 came into force should be notified to the AAI within two months of the date of its entry into operation (section four of the sole transitional provision of the Statute).

Consequently, given that the AAI is due to become operational on 1 September, the deadline for carrying out the above initial notification will be 1 November 2025. From that moment onwards, notification to the AAI of any subsequent appointment or dismissal of persons responsible for the internal information system will be governed by the standard period of ten working days referred to above.

3. PRACTICAL RECOMMENDATIONS

Currently, none of the provisions approved in relation to this matter – Law 2/2023, the AAI Statute or the Order that has just come into force – have provided for a specific procedure to determine how the appointment and dismissal of both individuals and members of the collegiate body who have been designated as responsible for the internal information system should be communicated.

It is likely that this question will be clarified once the AAI commences its activities, taking as an example any of the communication procedures that have already been implemented by some of the independent regional whistleblower protection authorities or by other supervisory bodies with similar procedures, such as the procedure established for communicating the appointment of the representative before the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC).

To ensure that companies subject to the regulation comply with the rules in force and thus avoid possible penalties, it is vitally important that they immediately check key issues provided for in Law 2/2023 to ensure the proper functioning of their respective internal information systems. The following duties are worth highlighting:

- i) Verifying that the appointment and/or dismissal of the individuals and members of the collegiate body who have been designated as responsible for the internal information system since Law 2/2023 came into force has been carried out correctly;
- ii) Ensuring that the competent bodies of each company notify the AAI of the appointment and/or dismissal of the above persons before 1 November 2025;
- iii) Verifying that the internal information system is accessible and complies with the confidentiality and whistleblower protection guarantees established in the regulations;
- iv) Ensuring that both the internal information system policy and its corresponding management procedure are documented, formally approved and communicated to all employees;
- v) Confirming that the necessary technical and organisational measures have been taken to protect the identity of whistleblowers and prevent retaliation;
- vi) Checking that the obligations to record and retain information are met within the specified time limits;
- i) In the event that a company has a website, it must verify that it provides the information required by Law 2/2023 on the home page, in a separate and easily identifiable section.

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