

CRYPTO ASSETS' SERVICE PROVIDERS AND THEIR REGULATION IN BRAZIL

WHAT ARE CRYPTO ASSETS?

Crypto assets are virtual assets that work within a decentralized system without a financial institution or a central authority to control the transactions carried out by these assets.

They are digital representations of value whose transfer, storage, and transaction can be carried out between people or companies electronically and are distributed on a peer-to-peer network. The uses for such digital assets are mainly for making investments, accessing goods and services, or transferring value.

WHAT ARE THE MAIN CATEGORIES OF CRYPTO ASSETS?

Crypto assets can be classified into different categories depending on the function and purpose for which they are used. Firstly, it is important to clarify that a crypto asset is not the same as a cryptocurrency, which is just one of the categories of crypto assets. Some of the main types of crypto assets are:

CRYPTOCURRENCY

Cryptocurrencies are electronic or virtual currencies that use cryptography to secure transactions. Their records are kept in blockchain architectures, allowing transactions and financial movements to be securely tracked without a central server or database.

It is one of the most well-known and widely used categories of crypto assets, particularly for storing value, as a means of exchange between parties for products or services, and for speculative and investment purposes. Although some currencies have existed physically, such as through credit cards or other projects, most cryptocurrencies remain entirely intangible.

Bitcoin (BTC) and Ethereum (ETH) are the most popular cryptocurrencies circulating within the market.

Still, under the category of cryptocurrencies, there are the Stablecoins, which are digital currencies linked to other more stable assets to determine their value. In other words, they are designed to be more stable than other cryptocurrencies and can be linked to fiat currencies such as dollars and euros or even commodities such as gold or oil.

UTILITY TOKENS

Utility tokens are service or utility tokens, i.e., crypto assets designed and developed for a specific purpose within a particular ecosystem, usually as an access path to certain services (“utilities”).

This type of token can offer a range of functions to holders in their respective systems, for example, in applications or games. These assets are stored on public blockchains that provide users exclusive benefits or credits in digital format.

NON-FUNGIBLE TOKENS (NFTS):

Non-Fungible Tokens (“NFTs”) are tokens associated with certain digital or physical assets considered collectable cryptoassets. They can be related to assets such as artistic representations, items in virtual games, images or musical compositions, etc.

As the name suggests, NFTs are non-fungible and unique. NFTs are traded online, and the payment method is usually cryptocurrencies.

CRYPTO ASSETS' SERVICES PROVIDERS

Crypto assets' services providers refer to the various activities and platforms that have emerged to facilitate these digital assets' use, trading, management, and exploitation. These service providers play an essential role in adopting and maturing the crypto assets market, making them accessible to a wider audience and offering solutions to this innovative technology's challenges.

Some of the main categories of crypto assets' service providers include:

Exchanges (Brokers)

Platforms where users can buy, sell, and trade crypto assets. They provide interfaces for investors to conduct transactions and interact with cryptocurrency pairs.

Digital Wallets

Tools for storing, managing, and transferring crypto assets. They can be online, offline, hardware, or even mobile applications, allowing users to keep their assets safe.

NFT Marketplaces

Platforms for buying, selling, and trading NFTs, which represent unique digital assets such as digital works of art, collectibles, and much more.

Payment Platforms

Services that allow crypto assets to be received as a form of payment in online and physical shops. This contributes to the mass adoption of cryptocurrencies as a means of exchange.

The most popular are the Exchanges, which are legal entities that perform virtual asset services on behalf of third parties. These service providers include the exchange between assets and currencies, the exchange and transfer of virtual assets between themselves, the custody or administration of virtual services or instruments that enable control over such assets, or participation in financial services and the provision of services related to the offer by an issuer or sale of virtual assets.

Exchanges can be specialized, for example, for trading only a certain type of virtual asset (such as Bitcoins) or wide-ranging, providing various services related to virtual assets.

Exchanges are essential for crypto assets because they act as intermediaries between traders (sellers) and investors, facilitating transactions and providing an interface so that agents can access the crypto asset market and carry out transactions with them. There are three types of Exchanges:



Centralized Exchanges

are platforms where crypto asset trading occurs within a controlled infrastructure by the Exchange.



Decentralized Exchanges (“DEX”)

are brokers that operate without a centralized intermediary, allowing their users to trade directly with each other via smart contracts.



Hybrid Exchanges

combine features of both approaches, offering the convenience of a centralized platform with the control security of a DEX.

Considering the widespread use of digital asset services in Brazil and several notorious cases of crypto asset fraud, regulating this market is necessary to prevent damage to people and companies operating with digital assets, offering greater legal certainty to the sector. This is how the Crypto assets Legal Framework and related regulations were developed.

REGULATION OF CRYPTO ASSET SERVICE

Crypto Assets Legal Framework

The Crypto Assets Legal Framework, Law n. 14,478/22, passed at the end of December 2022, is Brazil’s first law to deal with digital asset services.

The above-mentioned law aimed not to limit the sector’s activities but to provide more security for agents who negotiate with these virtual assets. Thus, the specific regulation seeks to protect investors long-term by preventing fraudulent activities and providing clear guidelines to allow companies to innovate in the crypto asset ecosystem.

The Legal Framework for Crypto assets does not expressly mention categories of crypto assets other than cryptocurrencies. However, with the popularization of NFTs, for example, this absence has already been criticized. In any case, since the law mentions “virtual assets”, it is possible that future rules regulating the wording will cover other crypto assets.

Crypto Assets Regulatory Authority

Another advance in the regulation of crypto assets in Brazil occurred with the recent publication of Decree No. 11,563/2023, published on June 14, which established the Central Bank of Brazil (Bacen) as the responsible body for regulating, authorizing, and supervising virtual asset service providers.

However, the Decree itself expressly emphasized that the attributions given to Bacen do not interfere with the Securities and Exchange Commission (CVM) competence, which will remain responsible for virtual assets representing securities.

With the nomination of the authority, the expectation is that this body will soon define more detailed rules for companies that provide services with digital assets in Brazil under the Legal Framework for Cryptocurrencies.

Our recognitions



Análise
Advocacia (2021)



Chambers & Partners
Brazil (2021 & 2022)



Leaders League
(2021, 2022
& 2023)



Transactional
Track Record
(2021 & 2022)



The Legal
500 (2022)

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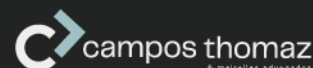
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