

# Brazil

**Bruno Balduccini**

*Pinheiro Neto Advogados, São Paulo*

[bbalduccini@pn.com.br](mailto:bbalduccini@pn.com.br)

**Luiza Eisenhardt Braun**

*Pinheiro Neto Advogados, São Paulo*

[lbraun@pn.com.br](mailto:lbraun@pn.com.br)

## **1. Fintech regulatory framework: a summary of the most relevant laws and regulations concerning fintech and financial innovation.**

With respect to fintech and financial innovation, it is important to highlight that Brazil has been developing an innovation-friendly regulatory environment for over a decade. In recent years, the Brazilian Congress, the Central Bank of Brazil ('Banco Central do Brasil' or BCB) and other relevant authorities have consolidated a modern regulatory framework designed to foster competition, facilitate market entry, and encourage the adoption of new technologies within the financial sector.

Regarding the use of the term *fintech*, it is generally employed to refer to both payment institutions (which include e-money issuers, credit card issuers, acquirers and payment initiation service providers) and digital lending entities (which include direct credit companies and peer-to-peer lending companies).

The main regulatory frameworks applicable both to payment institutions and digital lending fintechs are as follows.

### **Payment institutions**

Law No 12,865, of 9 October 2013, which provides for payment arrangements and payment institutions within the Brazilian Payment System (Sistema de Pagamentos Brasileiro or SPB), introduced new provisions regarding payment arrangements and created a new type of entity within the financial ecosystem: the Payment Institution. Other key regulations on this matter include National Monetary Council (Conselho Monetário Nacional or CMN) Resolution No 80/2021, CMN Resolution No 81/2021 and BCB Resolution No 96/2021.

A payment institution is defined as a legal entity that, by adhering to one or more payment arrangements, may act as:

- an issuer of electronic currency (eg, issuers of pre-paid instruments): entitled to offer and manage prepaid accounts and allow its clients to make payment transactions with the electronic currency deposited into such accounts;
- an issuer of post-payment instruments (eg, issuers of credit cards): entitled to offer and manage registered post-paid payment accounts to its clients and allow such clients to make payment transactions with such accounts; these entities cannot lend (such as revolving loans) to its clients;
- an acquirer: institutions that: (1) enable recipients (merchants) to accept payment instruments issued by a payment institution or by a financial institution; and (2) participate in the process of settlement of payment transactions as a creditor before the issuer, in accordance with the rules applicable to payment arrangements; and
- a payment transaction initiator: entitled to offer payment transaction initiation services, but not authorised to offer and manage any payment accounts, and may not receive or hold at any time the funds transferred within the provision of the service.

Until September 2025, e-currency issuers and payment transaction initiators were required to obtain prior authorisation from the Central Bank before commencing operations, whereas issuers of post-payment instruments and acquirers could begin operating without such prior approval and, upon reaching specified volume thresholds, were permitted to continue operating, but were required to request authorisation from the Central Bank. However, BCB Resolution No 494/2025, published in September 2025, now requires all types of payment institutions to obtain prior authorisation from the Central Bank in order to operate.

## **Digital lending fintechs**

Law No 4.595 of 31 December 1964 and CMN Resolution No 4.656 of 26 April 2018, as amended by CMN Resolution No 5.050 of 25 November 2022, with effect as of 1 January 2023, provide that such digital lending fintechs are considered 'financial institutions', and as such can lend money to third parties and follow a simplified and lighter regulatory regime. This is particularly important to the Brazilian market because, unlike other jurisdictions in Latin America, the activity of granting loans even with its own capital is a regulated activity that requires prior authorisation from the Central Bank.

Digital lending fintechs are classified as follows.

### ***Direct credit companies (SCDs)***

Financial institutions entitled to grant loans and financing to borrowers exclusively by means of electronic platforms and by using their own capital. SCDs are not entitled by law to offer deposit-taking products and, thus, are not entitled to perform financial intermediation to leverage lending activity with its deposit-taking activity. Besides granting digital loans, SCDs are also entitled to offer the following services:

- perform credit rights acquisition operations;
- credit analysis services for third parties;
- collection of credit rights services;
- act as an insurance representative in the offering of insurance products related to the services mentioned above;
- issuance of electronic currency (eg, issuer of pre-paid cards); and
- post-paid payment instruments (eg, credit cards).

### ***Person-to-person loan companies (SEPs)***

Financial institutions that have as purpose offering a digital platform that creates a lending marketplace between companies, securitisation vehicles and individuals as lenders and companies and individuals as borrowers. Besides that, SEPs are also entitled to offer:

- credit analysis services for third parties;
- collection of credit rights services;
- act as an insurance representative in the offering of insurance products related to the services mentioned above; and
- issuance of electronic currency (eg, issuer of pre-paid cards).

SEPs are not entitled to fund directly the loans offered within their platforms and are not entitled to retain the funds disbursed by the lenders within their platforms.

## **2. Regulations on crypto assets: a summary of the legal framework regarding crypto assets and how they are regulated.**

### **Virtual assets regulation**

Until very recently, Brazil did not have a comprehensive regulatory framework specifically governing crypto assets themselves. On 21 December 2022, the Brazilian Congress enacted Law No 14,478 which regulated the provision of so-called virtual asset services.

Under this law, a 'virtual asset' is defined as a digital representation of value that may be traded or transferred electronically and used for payment or investment purposes, excluding:

- national and foreign currencies;
- electronic money;
- instruments that grant their holder access to specific products or services or to benefits derived therefrom, such as loyalty programme points and rewards; and
- representations of assets whose issuance, bookkeeping, trading or settlement is already subject to specific laws or regulations, such as securities and financial assets.

Therefore, virtual assets include payment tokens such as bitcoin and Ether, as well as stablecoins such as USD Coin (USDC) and Tether (USDT), but do not encompass security tokens or tokens backed by other underlying assets (eg, real-world assets or RWAs). Central bank digital currencies (CBDCs) are also not expressly addressed under the current virtual asset regulatory framework.

Accordingly, virtual asset service providers (VASPs) are the entities that provide services involving such assets.

After this, Decree No 11.563, of 13 June 2023 was published, regulating Law No 14.478 and appointing the Central Bank as the authority responsible for regulating and supervising the entities that may be classified as VASPs within the scope of said law.

The Central Bank initiated a series of public consultations and made available draft regulations with a view to collecting comments, technical contributions and market feedback on the proposed regulatory framework for VASPs.

The outcome of these public consultations was formally consolidated in November 2025 with the publication of BCB Resolutions No 519, 520 and 521, which together establish the core regulatory structure applicable to VASPs in Brazil.

BCB Resolution No 519 governs the authorisation process, setting forth the procedural requirements, documentation, corporate governance standards and regulatory conditions that must be satisfied for a legal entity to obtain and maintain authorisation to operate as a VASP.

BCB Resolution No 520 defines the scope of authorised activities and establishes the operational, prudential, governance, compliance and risk management obligations applicable to VASPs, including conduct rules and internal controls requirements. It also sets forth rules on the relationship between VASPs and its customers.

BCB Resolution No 521 regulates the provision of virtual asset services within the foreign exchange market, addressing the conditions under which VASPs may conduct transactions involving cross-border flows and foreign exchange operations.

In addition, BCB Normative Instruction (IN) No 693/2025 establishes the reporting obligations applicable to VASPs in connection with transactions involving virtual assets in the foreign exchange market, detailing the information that must be submitted to the Central Bank and the applicable periodicity and format requirements. Furthermore, BCB IN No 704/2026 supplements the authorisation framework for VASPs by providing additional guidance and technical specifications regarding the documentation, procedural steps and regulatory information required in the authorisation process.

## **Tax treatment of crypto assets**

RFB IN No 1,888/2019 and RFB IN No 2,291/2025 ('DeCripto') are the regulations that set forth the applicable tax reporting obligations for companies that have operations with crypto assets. It is important to emphasise that IN No 1,888/2019 remained in force until 30 June 2026, and that DeCripto entered into force on 1 July 2026.

IN No 1,888/2019 establishes the obligation to report information to the RFB regarding crypto asset transactions carried out by exchanges, defined as legal entities domiciled in Brazil for tax purposes that provide services related to transactions involving crypto assets, including intermediation, trading or custody, and that may accept any means of payment, including other crypto assets. Under the current framework, entities subject to this reporting obligation must provide detailed information regarding the transactions conducted through their platforms.

DeCripto, in turn, is the new reporting obligation established by the RFB in relation to crypto asset transactions. DeCripto will be mandatory for VASPs that maintain a relevant nexus with Brazil, which encompasses not only residence or tax domicile in the country, but also situations such as local management, the existence of an establishment or regular operations in Brazil, or the provision of services directed at Brazilian residents.

In addition to VASPs, the reporting obligation may also apply to individuals or legal entities resident in Brazil that carry out crypto asset transactions without the intermediation of a local VASP, where the monthly transaction volume exceeds BRL 35,000.

With respect to the scope of DeCripto, its reporting requirements are significantly broader than those under the current regime, requiring the disclosure of information not only on traditional purchase and sale transactions, but also on: (1) exchanges between crypto assets; (2) transfers, whether for consideration or not; (3) loans, deposits and the return of collateral; (4) payments made using crypto assets; (5) transfers to wallets not linked to VASPs; and others.

### **Investor protection in relation to crypto asset transactions**

BCB Resolution No 520 establishes a comprehensive set of conduct and transparency obligations aimed at strengthening investor protection in the virtual asset market.

Under this framework, VASPs are required to provide educational and informational content designed to promote awareness of best practices and of the risks associated with transactions carried out in the virtual asset market. This obligation reflects a regulatory concern with ensuring that clients and users are adequately informed about the volatility, operational risks, technological risks and legal uncertainties inherent to crypto asset activities.

VASPs must also maintain readily available information regarding: (1) the institution itself; and (2) the characteristics of the services it provides, clearly indicating the legislation and regulation applicable to its activities. In addition, they must disclose the terms and conditions governing the provision of services as well as identify any other institutions or entities that may be involved in the provision of virtual asset services.

Furthermore, VASPs are required to provide clear and transparent information to clients and users regarding the existence or absence of coverage by guaranteed funds or insurance mechanisms applicable to the services rendered. This requirement is particularly relevant given that, unlike traditional financial institutions, VASPs are generally not covered by deposit guarantee schemes, and clients must be expressly informed of this circumstance.

### **3. Payment service providers and digital wallets: a summary of regulations applying to payment service providers and/or digital wallets.**

Please refer to section 1.

#### **4. Special support for fintechs: a description of special programmes supporting the fintech ecosystem, fintech startups (eg, regulatory sandboxes and accelerator programmes) and regulations regarding special support.**

The Central Bank developed and implemented, from 2021 to 2023, a regulatory sandbox designed to support and encourage the entry of innovative new players into the Brazilian market. Similar to other Latin American jurisdictions, this sandbox served as a controlled environment in which companies were authorised by the Central Bank to test, for a limited period, innovative projects related to the financial or payments markets. Its purpose was to promote innovation, broaden the diversity of business models, and enhance competition within both the Brazilian Financial System (Sistema Financeiro Nacional or SFN) and the SPB. However, no new application cycles have been launched since 2023.

The Central Bank also created the Financial and Technological Innovation Laboratory (Laboratório de Inovações Financeiras e Tecnológicas or LIFT), a joint initiative between the Central Bank and the National Federation of Associations of Central Bank Employees (Fenasbac). LIFT's main objective is to stimulate innovation by supporting the development of prototypes of technological solutions for the financial system. In practice, LIFT operates as a genuine ecosystem dedicated to fostering innovation. The initiative remains active and is currently receiving applications for its 2026 cycle.

Finally, other regulators, such as the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários or CVM) and the Private Insurance Superintendency (Susep), have also established their own regulatory sandboxes, with similar goals and regulatory frameworks, aimed at promoting innovation within their respective industries.

#### **5. Open banking: a summary of regulations regarding open banking and direct or indirect regulations that affect open banking.**

Brazil has a specific legal framework and a highly developed open finance system. According to the current regulatory framework contained in Joint Resolution No 1 of 2020, issued by the Central Bank and the CMN, and several normative instructions issued by the Central Bank, the Brazilian open finance system is defined as the system that allows customers of financial products and services to share their information between different financial institutions duly authorised by the Central Bank to receive a better financial product or service through the integration of platforms and infrastructure of information systems, enhancing transparency among the institutions and their customers.

It is important to note that what is commonly referred to as 'open banking' is called 'open finance' in Brazil. This terminology was adopted to reflect a broader scope, allowing for the sharing of financial information not only related to traditional banking products (such as savings accounts and loans), but also to other financial services and products, including foreign exchange, acquiring services, investments, insurance and others.

The Brazilian open finance system follows the following principles:

1. Only regulated entities may participate in the open finance system to guarantee privacy, due storage, encrypted sharing and correct processing of confidential personal and transactional data which is subject to bank secrecy obligations.
2. The open finance system did not modify or alter the Brazilian General Data Protection Law, which needs to be strictly complied with among the participants.
3. The main purpose of the open finance system is to foster competition and provide transparency to the users.
4. Users are the owners of their data and, thus, the open finance system is based on the principle that data sharing is only legally and practicably possible upon user's express consent.
5. The Central Bank regulates the minimum governance and technical standards to be mandatorily adopted among participants to be plugged in to the open finance system.

In order to enhance the system's efficiency, the Central Bank continuously updates and refines the regulatory framework governing open finance.

In this sense, in December 2025, the Central Bank issued BCB Resolution No 526, which established that the credit modalities included in the credit portability service under open finance must encompass both credit operations contracted by individuals and those contracted by sole proprietors or legal entities whose agreements may be executed by individuals.

The resolution also introduced new categories of participation in the open finance ecosystem, namely, the original lending institution and the proposing institution, both of which play a role in providing the credit portability service.

Finally, the resolution determined that the Open Finance Monitoring Manual must be updated to include the deadlines and service level agreements applicable to the provision of the credit portability service.

## **6. Regulation of virtual asset service providers.**

With respect to the regulation of VASPs, as previously noted, the applicable framework consists of Law No 14,478 and BCB Resolutions No 519, 520 and 521.

### **Licence application**

As detailed in BCB Resolution No 520, the authorisation process for VASPs already in operation in Brazil will be carried out in two phases:

#### ***Phase 1***

- Analysis of the proof of commencement of activities until the entry into force of the Resolution to be published by the Central Bank;

- verification of compliance with the minimum capital and net equity requirements, requiring the presentation of audited financial statements; and
- provision of information on controlling shareholders, contact person, types of services provided and size of operations.

## *Phase 2*

- Analysis of compliance with the requirements of economic and financial capacity of the controlling shareholders;
- lawful origin of the resources;
- economic and financial viability of the business;
- compatibility of the information technology infrastructure with the complexity and risks of the business;
- compatibility of the corporate governance structure with the complexity and risks of the business;
- unblemished reputation of managers, controllers and holders of qualified holdings;
- knowledge of the sector in which the managers operate;
- technical qualification of managers; and
- compliance with minimum capital and equity requirements.

## **Regulatory framework**

BCB Resolution No 519 establishes the core operational requirements applicable to VASPs. Among other matters, it regulates:

1. asset segregation, requiring VASPs to segregate their own assets from those of their clients;
2. anti-money laundering and counter-financing of terrorism (AML/CFT) obligations, including compliance with mechanisms equivalent to the Travel Rule;
3. virtual asset staking activities, setting parameters for how such services may be structured and offered;
4. margin loan transactions and staking services, including conduct and risk management requirements applicable to these products;
5. cybersecurity frameworks, requiring the implementation of robust information security and operational resilience policies;
6. the engagement of relevant service providers, including due diligence and oversight obligations;

7. eligibility criteria for virtual assets offered by intermediaries, ensuring that VASPs adopt objective standards for listing and maintaining virtual assets on their platforms; and
8. custody requirements, establishing specific governance, control and security standards for the provision of virtual asset custody services.

The regulation contemplates three categories of VASPs: intermediaries, custodians and exchanges, each subject to the applicable authorisation and operational requirements depending on the nature of the services provided.

*Virtual asset intermediaries* may act, on behalf of third parties, individually or cumulatively, in activities such as:

- subscription, individually or in a consortium, of virtual asset issues;
- buying, selling and exchanging virtual assets, on their own account and on behalf of third parties;
- provision of liquidity in the virtual asset market;
- management of portfolios composed of virtual assets or portfolios composed of virtual assets, securities, financial assets and other financial instruments permitted by specific regulations;
- acting as a fiduciary agent in the virtual asset market;
- providing virtual asset staking services to its customers;
- provision of virtual asset services in the foreign exchange market; and
- other activities expressly authorised by the Central Bank, when of the same nature and risk as the aforementioned activities.

In turn, *virtual asset custodians* will be responsible for:

- carrying out the custody and control of the virtual asset, in favour of the client, as well as the instruments that affect the exercise of ownership of the asset;
- providing an up-to-date description of the position of each type of asset of the holder, as well as reconciliation of this position with the information available in distributed ledger systems;
- complying with the transaction instructions issued by the holder of the virtual asset, as well as maintain such instructions;
- handling events that affect the virtual asset; and
- managing information relevant to the exercise of the above activities in relation to the holder and its assets under custody.

The activities of *virtual asset exchanges* will consist of the combination of the activities of intermediaries and custodians. It is important to note that intermediaries and custodians will not be able to accumulate functions restricted to other types of virtual asset providers.

Services that are not included in the regulation may not be performed by VASPs, such as the offering of derivatives or any yield-obtaining assets.

## **VASPs and the foreign exchange market**

BCB Resolution No 521 specifically regulates the participation of VASPs in the foreign exchange market. The new rule clarifies that VASPs authorised to provide virtual asset services in the foreign exchange market may perform:

- international payments or transfers with virtual assets;
- transfer of virtual assets to or from a customer of a virtual asset service provider for the fulfilment of an obligation arising from the international use of a card or other electronic payment method;
- transfer of virtual asset to or from self-custody wallet that does not involve payment or international transfer with virtual assets; and
- purchase, sale or exchange, stablecoins denominated in fiat currency (both local and foreign).

The regulation allows for cross-border payments or remittances exclusively with virtual assets, dispensing with the need for exchange involving fiat currencies (as currently required), subject to certain restrictions.

## **7. AML and the Travel Rule in crypto asset transactions.**

Article 44 of BCB Resolution No 520 establishes specific requirements for the control and monitoring of virtual asset transactions, particularly in the context of AML/CFT obligations.

In transactions involving virtual assets, the VASP is required to provide the receiving institution with detailed information regarding both the originator and the beneficiary of the transaction.

Regarding the originator of the transaction:

1. the name or trade name of the sender;
2. the full identification of the payment or deposit account, or equivalent international account identifier;
3. the residential or business address;
4. the number in the Individual Taxpayer Registry (Cadastro de Pessoas Físicas or CPF) or in the National Registry of Legal Entities (Cadastro Nacional da Pessoa Jurídica or CNPJ), or an equivalent international identification number, in the case of persons not required to enrol in such registries; and

5. the identification of the virtual asset wallet involved in the transaction.

Regarding the beneficiary of the transaction:

1. the name or trade name;
2. the full identification of the payment or deposit account, or equivalent international account identifier; and
3. the identification of the virtual asset wallet involved in the transaction.

In addition, VASPs must adapt their internal control systems and risk management policies to ensure compliance with these obligations. They are required to maintain transaction records available to the CBB for a minimum period of five years, and to identify suspicious or irregular transactions in accordance with applicable legislation governing the prevention of the criminal use of the National Financial System, including AML/CFT and counter-proliferation financing rules.

VASPs must also implement know-your-customer (KYC) procedures applicable to clients and users, as well as due diligence procedures regarding business partners and outsourced service providers.

The implementation of the Travel Rule requirements will occur in two stages. The first stage, applicable to the domestic virtual asset market, consists of establishing procedures to ensure the transfer of required information between VASPs established in Brazil, and must be implemented by 2 February 2027. The second stage, applicable to the international virtual asset market, extends these information-sharing procedures to cross-border transactions, including those involving foreign entities with which authorised VASPs maintain business relationships, and must be implemented by 2 February 2028.

Until the conclusion of both implementation stages, VASPs may rely on self-declarations provided by clients and users, in a format defined by the institution, for the purpose of identifying the client or user, the beneficiary, the virtual asset involved, the transacted amount and the purpose of the transaction. During this transitional period, VASPs may also conduct transaction monitoring based on a risk-based approach. Such declarations must be properly documented and maintained available to the CBB.

## **8. Enforcement and cross-border recognition of tokenisation and structuring of secured transactions involving crypto assets.**

### **Legal structures of tokenised assets**

In Brazil, the legal structuring of financial instruments structured in relation to tokenised assets depends primarily on the nature of the underlying asset and the economic rights attached to the token.

Where a token represents rights that grant economic participation, such as entitlement to profits or dividends, or qualifies as a security under Law No 6,385, of 7 December 1976, it is generally characterised as a security token. In such cases, the token falls under the jurisdiction of the CVM and must comply with applicable securities regulations.

Conversely, tokens created to represent, on a blockchain, a financial asset or other transferable asset with economic value that is not subject to prudential regulation by the Central Bank or conduct regulation by the CVM are typically characterised as asset-backed tokens.

In practice, the public offering of asset-backed tokens often relies on the crowdfunding framework established by CVM Resolution No 88, of 7 April 2022. In such cases, the offering must be conducted through duly authorised crowdfunding platforms and in compliance with the applicable regulatory requirements.

If the token merely represents ownership or fractionalisation of an underlying asset without constituting a security, the legal analysis will focus on the contractual and civil law structure, as well as the regulatory treatment of the specific asset class (eg, real estate, receivables, or financial instruments).

Decentralised finance (DeFi) instruments remain largely unregulated as a category, and their treatment depends on the specific activities performed (eg, intermediation, custody, exchange), which may fall under the VASP framework.

In the case of asset-backed tokens, assuming the tokens will be transferable, it is crucial to take into account any legal or regulatory requirements for the transfer of ownership of the underlying asset.

The key consideration is that whenever the legal framework governing the underlying asset establishes formal requirements for its transfer or enforceability, such requirements must continue to be strictly observed, irrespective of the technological innovation introduced by the tokenisation process. Any failure to comply with these formalities may result in material irregularities and give rise to significant challenges concerning both the enforceability of the underlying asset and the validity of the token itself.

Examples of financial instruments and assets that are subject to specific legal or contractual requirements for their transfer include:

- bank credit notes (*Cédula de Crédito Bancário* or CCBs), which may require endorsement and formal assignment of credit rights;
- promissory notes, which often necessitate endorsement and notification to the debtor;
- receivables arising from service agreements or supply contracts, which may require prior consent from the debtor or formal notification;
- judicial or arbitral claims, which may involve court approval or registration of the assignment; and
- real estate-backed securities, which typically require registration with the relevant public registry.

## **Security interest in digital asset transactions**

Regarding the collateral used in these offerings of asset-backed tokens, if through crowdfunding or not, there is no standard collateral model specifically applicable to token transactions in Brazil. In the absence of specific regulation on this matter, traditional forms of collateral may be used. In Brazil, the most common types of security interests include:

- mortgage (*hipoteca*);
- fiduciary transfer of ownership (*alienação fiduciária*);
- pledge (*penhor*); and
- fiduciary assignment (*cessão fiduciária*).

Under Brazilian law, the creation and perfection of a security interest depends on the type of collateral involved and compliance with applicable registration requirements. A mortgage over real estate is perfected upon registration with the competent real estate registry office of the location of the property. A pledge over movable assets must be registered typically with the Registry of Deeds and Documents, and may in some cases require transfer of possession. A fiduciary transfer of ownership, whether over movable or immovable assets, is perfected by registration with the competent registry (real estate registry office for real estate or Registry of Deeds and Documents, or other specific registry, for movable assets), with registration being a condition for the constitution of the *in rem* right. Similarly, a fiduciary assignment of receivables or credit rights must be registered with the Registry of Deeds and Documents at the debtor's domicile to ensure enforceability against third parties.

In the event of default, secured lenders in Brazil may enforce their security interests either judicially or, in certain cases, extrajudicially, depending on the type of security. Mortgages and pledges are typically enforced through court-supervised foreclosure proceedings and public auction. Fiduciary transfer of ownership, especially over real estate, allows for extrajudicial enforcement through consolidation of ownership in favour of the creditor followed by public auction, subject to statutory notice requirements. In the case of fiduciary assignment, the creditor may directly collect or retain the assigned credits to satisfy the debt, in accordance with the agreement and applicable law.

Direct appropriation of collateral is generally prohibited due to the ban on *pactum commissorium* under Brazilian law. Mortgages and pledges must be enforced through judicial sale. However, fiduciary structures are more flexible: in fiduciary transfer, the creditor may consolidate ownership after default but must usually proceed with a public auction, while in fiduciary assignment, the creditor may directly retain and apply collected amounts to the debt, as provided in the agreement.

Regarding the recognition and enforcement of a foreign governing law clause in a crypto asset-related contract, please refer to section 9.

## **9. Litigation and jurisdiction on crypto assets: legal implications of disputes involving crypto assets.**

Under Brazilian law, disputes involving crypto assets are subject to the general procedural rules and private international law framework, as there is no specific jurisdictional regime exclusively applicable to crypto-related matters.

Accordingly, a party's submission to a foreign jurisdiction must be analysed in light of Decree-Law No 4,657, of 4 September 1942, known as the Law of Introduction to the Rules of Brazilian Law, which establishes the principles and main parameters applicable to international contracts and cross-border legal situations. Pursuant to Article 17 thereof, foreign laws, acts, judgments and

declarations of will shall not be effective in Brazil if they violate national sovereignty, public order or good morals.

Therefore, a foreign governing law clause is, in principle, legally valid and enforceable, provided that the matter does not fall within one of the previously mentioned hypotheses or within the exclusive jurisdiction of Brazilian courts. Exclusive jurisdiction typically applies to matters such as rights *in rem* over real estate located in Brazil. Furthermore, for the purpose of qualifying and governing obligations, the law of the country where the obligation is constituted shall apply.

Accordingly, in crypto asset-related contracts entered into between commercial parties, foreign jurisdiction and exclusive forum clauses are generally recognised and enforceable, subject to the limitations described above.

## **10. Intellectual property (IP) and crypto assets: legal protection, ownership, enforcement, and monetisation of IP rights related to digital and virtual assets.**

In Brazil, IP is governed by Law No 9,279, of 15 May 1996, which regulates rights and obligations related to industrial property. The protection of rights related to industrial property, considering its social interest and the technological and economic development of the country, is effected through the granting of:

- patents for inventions and utility models;
- industrial designs;
- trademark registration; and
- registration for electronic games.

As a general rule, the author or inventor is entitled to apply for registration of the relevant intellectual property right. Ownership may also be contractually assigned or may vest in an employer, depending on the employment or services agreement and the circumstances of creation.

Patents, trademarks and industrial designs require formal registration before the Brazilian Patent and Trademark Office, the Instituto Nacional da Propriedade Industrial (INPI). Protection is granted for a limited term, which varies depending on the type of right (eg, patents generally last 20 years from filing for inventions; trademarks are renewable indefinitely in ten-year periods).

Intellectual property rights may be enforced through judicial measures, including infringement actions seeking injunctive relief, damages, seizure of infringing goods and other remedies. Administrative measures may also be available before the INPI in certain circumstances.

For trademarks, Brazil is a signatory to the Madrid Protocol (Madrid System), which facilitates international trademark registration through a centralised filing mechanism. For patents, international strategies may involve the Patent Cooperation Treaty (PCT), followed by national phase filings in selected jurisdictions.

With respect to crypto assets, protection depends on the underlying innovation. For example: (1) a blockchain-based technological solution may be patentable if it meets novelty, inventive step, and industrial application requirements; (2) a software may be protected by copyright; and (3) a platform name or token name may be protected as a trademark.

Finally, IP related to crypto assets may be monetised in Brazil through licensing agreements, assignment of rights, royalty structures, franchising, technology transfer agreements, and commercialisation of patented or trademarked products and services.

There are no specific legal restrictions on monetising IP merely because it relates to crypto assets. However, regulatory and legal compliance must be observed if the underlying crypto-related activity is itself regulated.



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**International Bar Association**

Chancery House  
53-64 Chancery Lane  
London WC2A 1QS  
United Kingdom  
Tel: +44 (0)20 7842 0090  
Fax: +44 (0)20 7842 0091  
Email: [editor@int-bar.org](mailto:editor@int-bar.org)  
**[www.ibanet.org](http://www.ibanet.org)**