

El Salvador

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

El Salvador has no single fintech statute. Its framework runs on two parallel layers, and the applicable regime depends on the infrastructure a service provider uses rather than on how the provider describes itself.

When a fintech operates on traditional rails (deposit accounts, card networks, electronic money in United States dollars (USD) and the payment systems of the Banco Central de Reserva (BCR), which is responsible for issuing technical rules, managing payment systems and registering bitcoin service providers (BSPs)), it falls under conventional financial regulation. That regulation is supervised by the Superintendencia del Sistema Financiero (SSF), which is responsible for conduct and prudential supervision, under the laws governing the traditional financial system. When a provider moves the activity onto bitcoin or digital asset rails, it falls under the special bitcoin and/or digital asset regimes. Each regime has its own licensing or registration requirements, conduct rules and supervisor.

The design is intentional: instead of extending traditional regulation to cover these activities, the legislator created a separate legal framework for decentralised finance (DeFi).

General financial regulation

The core of the traditional system is the Ley de Supervisión y Regulación del Sistema Financiero: the Law for the Supervision and Regulation of the Financial System governing traditional financial institutions. It gives prudential and conduct supervision to the SSF and regulatory powers to the BCR, which issues technical rules (*normas técnicas*) through its Comité de Normas.

Bitcoin legislation

The Ley Bitcoin, which established the legal framework for bitcoin use and BSPs, and its Reglamento set up a regime for persons who provide bitcoin services to third parties, such as exchanges, payment processors and wallet providers, among others (BSPs). BSPs must register with the BCR and are supervised by the SSF.

Digital assets and digital capital markets

The Ley de Emisión de Activos Digitales (LEAD), the Digital Asset Issuance Law governing digital asset issuances, digital asset service providers (DASPs) and stablecoins, created a regime for the public and private issuance of digital assets and for DASPs. It sits outside the traditional securities market framework. The LEAD also created the Comisión Nacional de Activos Digitales (CNAD) as the competent regulator and supervisor.

In practice, the LEAD has become the main vehicle in the jurisdiction for tokenised debt, and equity-like and asset-backed issuances.

Investment banking and alternative funds

The Ley de Bancos Privados de Inversión, the Private Investment Banks Law, created a new category of investment banks. They serve sophisticated investors and are expressly allowed to provide bitcoin and digital asset services, subject to their own capital and investor-qualification requirements.

The Ley de Fondos de Inversión Privados Alternativos, the Private Alternative Investment Funds Law, provides a framework for private alternative investment vehicles aimed at qualified investors, including vehicles investing in bitcoin and digital assets.

Incentives and adjacent regimes

The Ley de Fomento a la Innovación y Manufactura Tecnológica, the Innovation and Technology Manufacturing Incentive Law, grants tax benefits to qualifying technology activities, which can include fintech developers.

Upcoming developments

The most significant recent development for the fintech ecosystem is the Ley de Protección de Datos Personales: the Personal Data Protection Law. It gives El Salvador its first general data protection regime. The law sets out the principles for processing personal data, such as lawfulness, purpose limitation, data minimisation and security. It recognises data subject rights of access, rectification, cancellation, opposition and portability.

It also imposes obligations on data controllers and processors, including security measures, breach notification and restrictions on international data transfers, backed by a supervisory authority with sanctioning powers. It complements the Ley de Ciberseguridad y Seguridad de la Información, enacted at around the same time.

For fintechs, BSPs and DASPs, the law directly affects know your customer (KYC) onboarding, including biometric data. It also affects cross-border transfers of customer data, such as Travel Rule transmissions and cloud hosting. In addition, it affects how personal data is handled in blockchain-based products, where immutability conflicts with rectification and cancellation rights.

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

As explained before, bitcoin and other digital assets are governed by separate regimes: the Ley Bitcoin and the LEAD, respectively.

Legal nature

Despite the January 2025 amendments to the Ley Bitcoin, bitcoin remains a valid means of payment that private parties can freely agree to use to settle contracts, debts and other transactions.

Under the LEAD, digital assets are digital representations of the value issued and transferred using distributed ledger or similar technology. They are not securities. Stablecoins are expressly covered by the LEAD.

For private law purposes, both bitcoin and digital assets are treated as intangible movable property, so they can be owned, transferred, pledged and inherited.

Tax treatment

Under the Ley Bitcoin, exchanges involving bitcoin are not subject to capital gains tax.

The LEAD grants tax benefits to DASPs registered with the CNAD, including zero per cent corporate income tax; zero per cent VAT; zero per cent capital gains tax; zero per cent dividend and profit withholding tax; zero per cent municipal taxes; and zero per cent nominal value and transfer fees. These benefits are granted to the service provider in connection with its regulated activity. They do not extend to holders of digital assets, whose treatment follows the general tax rules.

Central bank digital currency (CBDC)

El Salvador has been officially dollarised since 2001, so the BCR does not issue a national currency, and there is no CBDC or plan for one. The country took the opposite path: it adopted a decentralised asset (bitcoin) and created a regime for USD-denominated stablecoins.

The relevant interaction for El Salvador is therefore with USD policy, not with a domestic CBDC.

Investor protection

For digital assets, investor protection rests on:

- disclosure requirements for public issuances approved by the CNAD;
- differentiated rules for public and private offerings;
- custody and segregation obligations on DASPs; and
- the supervisory and sanctioning powers of the CNAD.

For bitcoin, protection comes through the operational and security requirements that apply to BSPs. The Ley de Protección al Consumidor, the Consumer Protection Law protecting retail users in commercial and financial transactions, applies to retail users under both regimes.

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

Payment service providers and digital wallets are regulated according to the rails they operate on, following the two-layer approach described in point 1.

Traditional rails

Electronic money and digital wallets denominated in USD are governed by the Ley para Facilitar la Inclusión Financiera: the Financial Inclusion Law. This law created the *sociedades proveedoras de dinero electrónico*, electronic money service providers, which must be authorised and are supervised by the SSF under technical rules issued by the BCR. Customer funds must be backed in full and kept separate from the provider's own assets. Banks and cooperative banks may also issue electronic money.

Payment and settlement infrastructure is overseen by the BCR under the Ley del Sistema de Pagos y Liquidación de Valores: The Payment System and Securities Settlement Law overseeing interbank transfer infrastructure. This includes the BCR's own interbank transfer systems, such as Transfer365.

Bitcoin rails

Bitcoin wallets and bitcoin payment processors are BSPs under the Ley Bitcoin. They must register with the BCR and are supervised by the SSF (see point 1(b)). No prior authorisation as an electronic money issuer is required. The applicable requirements are the registration, operational, security and anti-money laundering (AML) requirements set out in the BCR's technical rules.

Digital asset rails

Wallets, custody and transfer services for digital assets other than bitcoin, including USD-denominated stablecoins, are DASP activities under the LEAD. They require a CNAD licence. Stablecoin-based payment services fall under the LEAD to the extent that they operate as a DASP or expose the end-user to the stablecoin. Where stablecoins are used only as back-end infrastructure to make the process more efficient, the service remains under the traditional regime.

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

Regulatory sandboxes

El Salvador has no formal regulatory sandbox for fintech. Instead, the special regimes were built to keep barriers to entry low. Both the Ley Bitcoin and the LEAD rely mainly on registration rather than traditional banking-style licensing. In practice, this gives innovative business models a direct and relatively fast path to operating under supervision, without a separate testing phase.

Tax incentives

The Ley de Fomento a la Innovación y Manufactura Tecnológica grants tax benefits to qualifying technology and innovation activities, including software and fintech development. The law covers activities such as software and application development, artificial intelligence (AI), cloud computing,

data processing and technology manufacturing. Beneficiaries registered under the law are exempt from income tax, import duties on goods used in the activity and municipal taxes, for a period of 15 years. The LEAD tax benefits for DASPs also act as an incentive for digital asset businesses to set up in the jurisdiction.

Government-backed programmes

The Oficina Nacional del Bitcoin (ONBTC), a government office created to promote bitcoin adoption, supports the ecosystem through education and talent development. Its flagship initiative is CUBO+, a training programme for Salvadoran bitcoin developers.

Beyond CUBO+, the ONBTC runs several major national initiatives, focused on public education, civil servant training and economic zones.

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

El Salvador has no specific open banking regulation. No rule requires financial institutions to share customer data with third parties through application programming interfaces (APIs), and there is no licensing category for account information or payment initiation services.

Traditional commercial banks do not yet offer public, regulated open APIs. The ecosystem nonetheless achieves open financial connectivity through other mechanisms:

- **Bilateral API agreements:** banks enter into private integration agreements with fintechs, payment gateways and aggregators. Each agreement sets its own technical, security and data-sharing terms, based on customer consent.
- **Interoperable payment infrastructure:** through Transfer365, the BCR connects banks and other participating financial institutions for immediate transfers. This gives fintechs operating through a participating institution access to the whole system.
- **Electronic money providers:** authorised electronic money providers connect to banks and to one another for cash-in, cash-out and transfers. This extends access to users outside the banking system.
- **On/off-ramps:** BSPs and DASPs connect bank accounts with bitcoin and digital asset wallets. This lets users move value between the traditional and decentralised rails. On bitcoin and digital asset rails, much of what open banking pursues is part of the design. Transactions are recorded on public ledgers and wallets can interoperate without an intermediary granting access. Users can move their assets between providers freely. In that sense, the special regimes already offer a form of open finance, without the need for a data-sharing mandate.

Traditional rails: regulations that indirectly affect open banking

Several rules shape how open banking could develop on traditional rails:

- Banking secrecy: under the Ley de Bancos, the Banking Law, deposit and customer information is confidential. It can only be disclosed with the customer's consent or in the cases the law allows. Any data-sharing model therefore has to be built on express customer authorisation.
- Data protection: the Ley de Protección de Datos Personales recognises a right to data portability, which requires data controllers to transfer user data in a structured, commonly used and machine-readable format. This gives customers a legal basis to ask that their data be transferred. It is the closest existing foundation for an open banking framework.
- Credit information: the law regulating credit history services already allows certain credit information to be shared in a controlled way among authorised entities.
- Payment infrastructure: the BCR's interbank transfer systems, such as Transfer365, provide interoperability between institutions, although they are not a data-sharing framework.

6. Regulation of virtual asset service providers

Domestic law does not use the term 'virtual asset service provider' (VASP), instead we use the term 'DASP'. Following the two-layer approach, it distinguishes two categories of providers, each with its own regime and supervisor.

BSPs

Under the Ley Bitcoin, its Reglamento and the BCR's technical rules, persons who provide bitcoin services to third parties must register with the BCR before operating. Regulated activities include exchange, custody, transfers, wallets and payment processing. BSPs must meet operational, technological security and AML requirements. The SSF supervises BSPs and has sanctioning powers over them.

DASPs

Under the LEAD and the CNAD's regulations, persons who provide services related to digital assets other than bitcoin must obtain a licence from the CNAD and be entered in its register. Regulated activities include exchange between digital assets and fiat currency or other digital assets; custody and administration; transfers; trading platforms; and services to issuers in public and private issuances. The CNAD is the regulator, supervisor and enforcement authority for DASPs.

The main secondary rules applicable to DASPs are:

- Reglamento de Proveedores de Servicios de Activos Digitales (PSAD): governs the licensing process and the operational, capital, technological and due diligence requirements that all platforms, custodians and exchanges must meet to operate lawfully in El Salvador.
- Reglamento de Emisión de Ofertas Públicas de Monedas Estables (REOPME): sets the specific framework for the creation, issuance and backing of stablecoins. It also defines the conditions under which the CNAD grants its 'no objection' resolution or authorisation for their commercialisation in the national territory.

- **Reglamento de Registro de Emisores y Emisiones Públicas y Privadas:** sets the procedures and technical requirements for the formal registration of issuers and for structuring the information prospectus of public offerings of digital assets, such as tokenised debt or real estate.
- **Unidad de Investigación Financiera (UIF) Instructivo Especial para Proveedores de Servicios de Activos Virtuales:** issued by the UIF, it sets the AML/counter-terrorist financing (CFT) obligations of DASPs (and BSPs) in line with Financial Action Task Force (FATF)/Grupo de Acción Financiera de Latinoamérica (GAFILAT, the Financial Action Task Force of Latin America) Recommendations 15 and 16.

A single provider may carry out activities under both regimes. In that case, it needs both a BSP registration and a DASP licence. Investment banks under the Ley de Bancos Privados de Inversión may provide bitcoin and digital asset services within their own regulatory framework.

7. AML and the Travel Rule in crypto asset transactions

Legal framework

BSPs and DASPs are obligated subjects under the Ley Especial para la Prevención, Control y Sanción del Lavado de Activos, Financiamiento del Terrorismo y Financiamiento de la Proliferación de Armas de Destrucción Masiva, the primary AML/CFT law. The UIF of the Fiscalía General de la República has issued a special *instructivo* for VASPs, which follows FATF/GAFILAT Recommendations 15 and 16. Its core obligations are:

- a risk-based approach, including an institutional risk assessment;
- customer due diligence and enhanced due diligence for higher-risk customers, including politically exposed persons;
- appointment of a compliance officer;
- record-keeping; and
- reporting of suspicious transactions and of transactions above the regulatory thresholds to the UIF.

Travel Rule

No single Salvadoran agency administers the Travel Rule. It works through a joint regulatory framework, in which each authority covers a different part of the obligation:

UIF

As the central AML authority, the UIF imposes three baseline obligations on DASPs and BSPs:

- registration with the UIF, in addition to registration with the BCR (for bitcoin) or the CNAD (for other digital assets);
- traceability, meaning that they must identify and record the origin and destination of every virtual asset transfer and give the UIF access to those records on request; and
- reporting of suspicious and regulated operations through the UIF's forms and platform.

CNAD

As the central authority for DASPs, the CNAD has issued an AML *instructivo* that sets the Travel Rule obligation specifically for the providers under its supervision. It requires DASPs to:

- collect originator and beneficiary information for each digital asset transfer;
- verify that information; and
- transmit it to the counterparty provider together with the transfer. The CNAD verifies compliance through its licensing and ongoing supervision of DASPs, including its power to require information from them.

No minimum threshold

El Salvador applies a zero-threshold policy: originator and beneficiary information must accompany every virtual asset transfer, whatever its value.

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

Structuring

Tokenised instruments are structured as public or private issuances of digital assets under the LEAD. The most common structures are:

- tokenised debt: digital assets representing a debt obligation of the issuer, such as digital bonds;
- asset-backed tokens: digital assets backed by real estate or other real assets; the underlying assets must be held through the vehicles required by the Reglamento de Registro de Emisores y Emisiones Públicas y Privadas; and
- equity-like and revenue-sharing tokens: digital assets that grant economic rights in the issuer's business or in specific revenue streams.

DeFi instruments without an identifiable issuer or service provider fall outside the LEAD.

Collateral and perfection

In token offerings the collateral (or underlying backing asset) typically falls into one of four categories:

Category 1: Real estate and construction infrastructure

This is one of the fastest-growing sectors for tokenisation in the country. Tokens are backed by the land title, the physical real estate or future project and commercial cashflows.

Category 2: Corporate debt, accounts receivable and credit portfolios

Issuers use corporate promissory notes, commercial invoices (factoring), vehicle leasing contracts or private credit portfolios as collateral.

Category 3: Precious metals and commodities

Tokenising physical commodities allows issuers to offer stable, inflation-resistant products. Tokens are collateralised 1:1 by physical reserves held in verified vaulting facilities, or by agricultural inventory.

Category 4: Fiat currency and liquid reserves (stablecoins)

For payment and treasury tokens, the CNAD's REOPME requires issuers to hold, at all times, reserves backing the stablecoins in circulation at a minimum 1:1 ratio. The reserves are subject to a 70/30 liquidity rule: at least 70 per cent must be invested in assets that can be liquidated within 30 days, and the remaining 30 per cent may be held in assets liquidable in more than 30 days. Eligible reserve assets (*activos internacionales de reserva*) are broadly defined. They include cash and cash equivalents; low-risk debt instruments such as Treasury bills, gold and other commodities; bitcoin; other CNAD-approved stablecoins; and loans secured by liquid assets. Reserves may not be invested in assets issued by entities related to the issuer's shareholders or principal executives. The issuer must file a monthly sworn statement on its reserves with the CNAD and quarterly attestations by an external auditor must be published on the issuer's website.

Creation and perfection of security interests

The formalities depend on the type of collateral:

- Real estate: a mortgage must be granted in a public deed before a Salvadoran notary. It is perfected, and becomes enforceable against third parties. In real estate tokenisations, the property is owned by the issuer's dedicated company and placed in a trust with an SSF-authorized bank.

- Receivables, promissory notes and credit portfolios: security over receivables and other movable assets is created by a written security agreement under the Ley de Garantías Mobiliarias, the Law on Security Interests in Movable Assets, and perfected by registration with the Registro de Garantías Mobiliarias. Promissory notes and other negotiable instruments may also be pledged by endorsement in guarantee and delivery to the secured creditor.
- Commodities and precious metals: security is created over the physical inventory under the Ley de Garantías Mobiliarias, typically combined with custody arrangements with the vaulting or warehousing facility. Traditional commercial-law instruments for perfecting security over goods may also be used.
- Stablecoin reserves: reserves are not collateral in the strict sense. They are protected through the backing and custody rules of the REOPME. The issuer must report to the CNAD which financial or digital institution holds its reserves.

For any CNAD-registered offering backed by movable or immovable assets, the Documento de Información Relevante (DIR), the prospectus or relevant information document required for digital asset offerings registered with the CNAD, must explain the mechanism that prevents disposal of the assets. The CNAD may require a general prohibition on disposal, recorded in the relevant registry through a preventive annotation, as a condition for enabling the offering.

The ‘double-wrapper’ structure

In a standard Salvadoran tokenisation, the traditional security instrument creates the binding legal lien over the physical goods. The rights flowing from that perfected commercial contract are then legally assigned to a special purpose vehicle (SPV), an authorised trustee bank or directly linked via smart contracts and the token’s DIR (prospectus) registered before the CNAD.

El Salvador has no stamp duty. Registration fees and notarial fees apply.

Foreign governing law

In general guidelines, Salvadoran courts will generally recognise and enforce a foreign governing law clause in a private crypto asset-related contract, provided it involves sophisticated or commercial parties and does not violate local public policy (*orden público*); notwithstanding, if the contract relates to a public offering of digital assets registered in El Salvador, the mandatory provisions of the LEAD and the supervision of the CNAD will override any conflicting foreign law choice.

Enforcement

The Ley de Garantías Mobiliarias allows out-of-court enforcement over movable collateral where the parties have agreed to it, including private sale. For collateral with an objective market value, it also allows the secured creditor to appropriate the collateral directly. This also applies directly to collateralised digital assets because bitcoin and tokenised real-world assets registered under the LEAD have verifiable, transparent market prices (or are tied 1:1 to a target fiat currency in the case of stablecoins), and they satisfy the ‘objective market value’ standard. Otherwise, and for mortgages,

enforcement takes place through judicial executive proceedings, which end in a public auction, under the Código Procesal Civil y Mercantil: the Code of Civil and Commercial Procedure.

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

Legal implications of disputes involving crypto assets

There are no specialised courts or procedural rules for crypto asset disputes. These disputes are heard by the ordinary civil and commercial courts under the Código Procesal Civil y Mercantil. However, the digital asset regime adds the following specific rules:

- Freezing of assets: when a court orders an attachment over digital assets or fiat money held in a wallet or platform, it must notify both the DASP that administers it and the CNAD. From that notice, the DASP must freeze and suspend any transaction involving the attached assets, and the CNAD oversees compliance.
- Arbitration: parties to digital asset transactions carried out through a DASP's wallet or platform may submit their disputes to arbitration at a seat of their choice. They must report monthly to the CNAD on the start, progress and conclusion of the proceedings.
- Issuances: every DIR must state the dispute resolution mechanism that will apply, arbitration being one of the options.

Submission to a foreign jurisdiction

The parties' express submission to a foreign jurisdiction is binding. The digital asset regulations expressly contemplate submission to the courts of any country, and apply Salvadoran jurisdiction only as a default where the parties have made no express choice. The same default applies to issuances: if no dispute resolution mechanism is expressly chosen, the parties are deemed to submit to the Salvadoran courts, and in an arbitration with no designated seat, the seat is deemed to be El Salvador.

Before it can be enforced in El Salvador, a foreign judgment must be recognised through exequatur proceedings before the Corte Suprema de Justicia. Foreign arbitral awards are recognised under the New York and Panama Conventions, and domestic arbitration is governed by the Ley de Mediación, Conciliación y Arbitraje.

Exclusive jurisdiction clauses

Exclusive jurisdiction clauses are respected and enforceable, both for courts and for arbitration. Their limits are matters reserved to the Salvadoran courts, such as real rights over real estate located in El Salvador, and the CNAD's mandatory supervisory powers, which a choice of forum cannot displace.

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

Protection and ownership

IP is governed by a single statute, the Ley de Propiedad Intelectual, and administered by the Instituto Salvadoreño de la Propiedad Intelectual (ISPI). Registration of IP rights is not mandatory, but its effects differ by type of right:

- Copyright, including software: copyright arises from the sole fact of creation, with no registration required. Software is protected as a literary work. Depositing a work with the Registro de Propiedad Intelectual of the ISPI is optional and declarative: it serves as evidence of the work's existence, unless proven otherwise.
- Trademarks: using or registering a trademark is optional. However, ownership of a trademark and the exclusive right to use it are acquired only through registration, and only for the goods and services registered. This applies to the names and logos of crypto projects and tokens. Foreign trademarks are protected in El Salvador only once registered locally, except for well-known marks.
- Patents: patents are granted for inventions in all fields of technology. Discoveries, scientific theories, mathematical methods and methods of doing business are excluded.

Ownership belongs to the author or the registered holder. For software created on commission, the contract between the developer and the producer, meaning the person who commissions the programme, bears its economic cost and intends to exploit it, implies an unlimited and exclusive assignment of the economic rights to the producer, unless otherwise agreed.

Enforcement

Rights holders can bring civil actions for infringement, seek injunctive relief, request border measures and file criminal complaints for the offences in the Código Penal: the Penal Code of El Salvador.

Foreign protection

El Salvador is a member of the main international treaties, including the Paris and Berne Conventions, and the Patent Cooperation Treaty. The choice of foreign jurisdictions is usually driven by where the project's users, markets, developers and competitors are, how strong enforcement is there and cost.

Monetisation

IP rights can be monetised locally through licensing and assignment. Transfers of trademarks must be in writing and registered with the ISPI to be effective against third parties, while trademark licences are effective against third parties without registration. IP-related revenue streams, such

as royalties, can also be tokenised through an issuance under the LEAD. Acquiring a token or NFT linked to a work does not by itself transfer the IP rights in that work; the transfer must be expressly agreed. There are no specific legal restrictions on monetising IP through crypto assets.



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