

## Cryptocurrencies and the consumer protection code

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### Summary

This article addresses the legal and regulatory challenges in the cryptocurrency market, which originated with Bitcoin in 2008. It discusses the need for regulation given the complexity and exponential appreciation of cryptocurrencies. The existence of thousands of cryptocurrencies and exchanges in the market is highlighted, raising concerns about scams and a lack of guarantees for investors. Brazilian legislation is analyzed, especially in cases involving foreign companies and cryptocurrency theft. Solutions are suggested, such as the purchase of crypto assets by Brazilian financial institutions and the choice of national exchanges. Brazil's participation in international structures for the exchange of information on crypto assets is emphasized. The article concludes by highlighting the importance of prior knowledge and the evolution of Brazilian law to address the challenges of this market.

Constant change.

**Keywords:** Bitcoin; Cryptocurrencies; Regulation; Consumer.

### Abstract

The article addresses the legal and regulatory challenges in the cryptocurrency market, originating with Bitcoin in 2008. The need for regulation is discussed considering the complexity and exponential growth of cryptocurrencies. The existence of thousands of cryptocurrencies and exchanges in the market is highlighted, raising concerns about scams and lack of guarantees for investors. The Brazilian legislation is analyzed, especially in cases involving foreign companies and cryptocurrency theft. Solutions such as the purchase of crypto assets by Brazilian financial institutions and the choice of national exchanges are suggested. The participation of Brazil in international frameworks for exchanging information about cryptocurrencies is emphasized. The conclusion highlights the importance of prior knowledge and the evolution of Brazilian law to address the challenges of this constantly changing market.

**Keywords:** Bitcoin, Cryptocurrencies, Regulation, Consumer

### 1. Introduction

In mid-2008, a person using a pseudonym, whose face has not yet been identified, went by the name Satoshi Nakamoto launched "Bitcoin," a digital currency created with the intention of being a form of Payment without state control and in a decentralized manner, with transactions using this currency. They are validated by computers located around the world and connected to the internet. The computers Those who wish to validate these transactions must connect to the blockchain, which is the technology that... It records encrypted transactions in a unique way, providing security in this process. negotiation (Rocha, 2023).

With the emergence of this market, won't regulation of the sector be necessary? At the risk of A scam? Are there any guarantees regarding these assets? Can the law help me in any way? These are the questions. central themes that we will address.

### THE CRYPTO MARKET

Cryptocurrencies also emerged as a form of protection against market crises.



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The real estate market in 2007 and 2008 was one of the worst financial crises in our history, apart from...

State control and financial resources over this new asset are important, and it's worth remembering that many American banks...

They closed their doors, leaving thousands of clients without their assets allocated in these institutions.

(Rocha, 2023).

The allure of this market is the same as some others, except that the market of Cryptocurrencies are characterized by enormous appreciations, allowing us to multiply our assets.

thousands of times, let's look below at the 2017 Bitcoin valuation chart, which

It appreciated by an impressive 2000% in just one year, and in December of that same year...

It depreciated and fell by almost 50% (Umpieres, 2017).

With the emergence of this new niche in the financial market, and after 16 years, we can easily...

to realize from a search on the website called "coinmarketcap," which specializes in ranking

and offer diverse information about the so-called cryptocurrencies, of which there are approximately 10,000.

We can also identify where we can acquire these currencies, as well as identify where we can buy them at so-called exchanges.

cryptoassets (COINMARKETCAP, 2024).

## **The Law**

Let's analyze the following situation: A person residing in Brazil buys a cryptocurrency.

If an asset is in a brokerage firm based in another country and, for some reason, is stolen, what should I do?

Now what? What rights does this citizen have?

To answer this question, we will refer to what the Law of Introduction to Brazilian Law says – Decree-Law No. 4657/1942:

Article 13. Proof of facts occurring in a foreign country is governed by the law in force in that country. Regarding the burden and means of producing evidence, Brazilian courts do not admit evidence that the law... Brazilian woman unaware.

We see here that, as a rule, Brazilian laws cannot be applied in these cases, not being... The object of this article is the analysis of possible foreign legislation on Brazilian soil, subject to scrutiny. from the judiciary for its full effectiveness.

Despite the forecast presented, there are hypotheses that may be admitted under Brazilian law against companies based outside of Brazil as provided for in art. 23, I, b, II of the Code of Civil Procedure (BRAZIL, 2015).

Article 22. The Brazilian judicial authority also has jurisdiction to hear and decide the following actions:

**I - Regarding food, when:**

- a)** The creditor is domiciled or resident in Brazil;
- b)** The defendant maintains ties in Brazil, such as possession or ownership of assets, or receipt of income. or obtaining economic benefits;

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**II - Arising from consumer relations, when the consumer is domiciled or resident in**

**Brazil;**

**III - In which the parties, expressly or tacitly, submit to national jurisdiction.**

We can thus clearly foresee a consumer relationship, as is the case here, and that this can... to be prosecuted under the law governing consumer relations, the Consumer Protection Code, including this provision in the new legislation entitled "Legal Framework for Cryptoassets", the Law No. 14478/2022.

The problem here, and the warning that follows, will be addressed in the Brazilian legal system. How will such a company be identified if we don't have its CNPJ (Brazilian National Registry of Legal Entities)? (Legal procedures)? How do I get a summons to this company?

First, we must be aware that these companies often have their headquarters around the world. There are no real, nonexistent companies; sometimes it's unknown who is behind them. This is a warning: be aware. that you could often lose your assets if you keep them in these companies, especially with There is little or no information about its members.

To illustrate this scenario a little, we can watch the documentary entitled "Crypto Fraud," which portrays the creation of a company that, although it existed in the physical world, was created by young people who lacked knowledge about cryptocurrency technology and embezzled the amount of money. US\$32 million dollars, and it's not difficult to find several [references/information] with a quick internet search. Cases of fraud in this market, both in Brazil and abroad (CRYPTO FRAUD, 2024).

According to an article published by InfoMoney, a court in São Paulo has ruled... that the cryptocurrency exchange Mercado Bitcoin returned more than 2,000 Bitcoins to its clients, the equivalent to a current value of 300 million reais. Judge Celso Lourenço Morgado, of the 39th Court. The Civil Court of São Paulo published the decision on Wednesday (31), the brokerage firm can appeal (MARINS, 2023).

In a press release, she stated that she will appeal as soon as she is formally notified in the legal sphere. Regarding the decision, MB has not yet been notified of this ruling, but if the decision is upheld, it will appeal.

"within the legal timeframe."

The process originated in 2015 and the authors are members of the same family. Thiago de Camargo Martins Cordeiro, Conceição Aparecida de Camargo Martins, Dirce Gracy Martins Cordeiro and Elisabete Martins claim to have been victims of a scam perpetrated by one of the founders. from Mercado Bitcoin.

In the legal proceedings, they request the return of the deposited funds and compensation for moral damages. This point was partially accepted by the court; let's look at part of the decision: "I partially rule..." The requests are granted, ordering the defendant, jointly and severally, to reimburse the 2,182.9880751



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bitcoins improperly withheld, in accordance with the reasoning that becomes an integral part of

"The device. I am resolving the case on its merits," the judge wrote.

Returning to the issue of taking legal action against the company, it will be necessary to issue a letter.

A rogatory letter, which does not have a simple procedure and depends on finding the company's physical address and following it.

rules of international conventions, which can easily take a long time to complete.

The whole process.

## **SOLUTIONS TO THE PROBLEM AND REGULATION**

A good response to this problem is the recent availability of [something] by various institutions.

Brazilian financial institutions purchase these assets through their customer communication channels, or

In other words, smartphone apps and the institutions' own websites, leading to a

Comparable security to what we have in other financial assets in the national market.

Another solution would be to choose a good brokerage firm based in Brazil, it's worth highlighting that...

It is of such importance in the market that the world's largest exchange, "BINANCE," has established a representative in country and can easily be activated in Brazil.

Another important step to bring order, security, prevent currency evasion and collect taxes.

Regarding the tax levied on investors in this market, Brazil participates, along with nearly 50 other countries, in a structure of...

Crypto-Asset Information Exchange (EIIIC) or Crypto-Asset Reporting Framework (CARF)

developed by the Organisation for Economic Co-operation and Development (OECD), with this

Under this structure, participating countries will receive reports on transactions in international brokerage firms, a move that is even foreseen in Law No. 14478/2022 (GUIMARÃES, 2023).

## **FINAL CONSIDERATIONS**

This work did not aim to exhaust this immense subject, but merely to serve as a warning to those who...

If you want to invest your money, know where you are putting your resources and how we can act if necessary.

in case some misfortune occurs in this process.

Prior knowledge of this and other available assets is essential for a real

The awareness of what to do and the legal knowledge explained here shows the difficulties and the solutions.

To be successful, even if your assets are diverted or lost in some way, it is worthwhile

It should be noted that topics such as physical or virtual cryptocurrency wallets were not explored here.

and deserve to be studied for the real protection of your investment.

Brazilian law could not ignore this problem and is constantly...

evolution to encompass these issues, even if they say that judges could use hermeneutics.

To judge these processes, the existence of specific legislation creates an obligation to use it.

specific legislation for these consumer relations cases clearly evidenced in Law No.



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14478/2022 indicating that consumer relations will be governed by our well-known Code of Consumer Protection.

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