

LAW NO. 14,478, OF DECEMBER 21, 2022

Provides guidelines for virtual asset services and regulates the activities of virtual asset service providers; amends Decree-Law No. 2,848 of December 7, 1940 (Criminal Code), to include the crime of fraud in services involving virtual assets, securities or financial assets; amends Law No. 7,492, of June 16, 1986, which establishes crimes against Brazil's financial system; and amends Law No. 9,613, of March 3, 1998, to include providers of virtual asset services within the scope of the crime of money laundering.

THE PRESIDENT OF THE REPUBLIC hereby declares that the BRAZILIAN CONGRESS decrees, and I sanction:

Article 1. This Law provides guidelines for the provision of virtual assets services and the regulation of virtual assets service providers.

Sole paragraph. The provisions of this Law do not apply to assets representing securities subject to Law No. 6,385 of December 7, 1976, and do not affect the competence of the Brazilian Securities and Exchange Commission (*Comissão de Valores Mobiliários – CVM*).

Article 2. Virtual assets service providers may only operate in Brazil with prior authorization from a regulatory body or entity from the Federal Public Administration.

Sole paragraph. The act from the regulatory body or entity from the federal public authority, mentioned in the head paragraph, sets the circumstances and parameters under which this authorization may be granted through a simplified procedure.

Article 3. For the purposes of this Law, virtual assets are digital representations of value that can be traded or transferred via electronic means and used for making payments or investments, except for:

I – Brazilian and foreign currencies;

II – electronic currency, under the terms of Law No. 12,865 of October 9, 2013;

III – instruments that provide their holders with access to specific products or services or any benefits thereof, such as loyalty program points and rewards; and

IV – representations of assets whose issuance, recording, negotiation, or liquidation is provided for in laws or regulations, such as securities or financial assets.

Sole paragraph. The authority from the Federal Public Administration appointed by the Executive Branch is responsible for determining which financial assets will be regulated for the purposes of this Law.

Article 4. Virtual asset services are subject to the following guidelines, in accordance with the parameters that will be defined by the regulatory body or entity from the Federal Public Administration appointed by the Executive Branch:

I – free enterprise and free competition;

II – good governance practices, transparent operations, and a risk-based approach;

III – information security and personal data protection;

IV – consumer and user protection;

V – the protection of popular savings and investments (*poupança popular*);

VI – sound, efficient transactions; and

VII – the prevention of money laundering, terrorism financing and the proliferation of weapons of mass destruction, in line with international standards.

Article 5. A virtual asset service provider is defined as a legal entity that performs at least one of the following virtual asset services on behalf of third parties:

I – exchanges of virtual assets and Brazilian or foreign currency;

II – exchanges of one or more virtual assets;

III – virtual asset transfers;

IV – custody or administration of virtual assets, or instruments that allow control over virtual assets; or

V – financial services and services related to the offer of virtual assets by an issuer or the disposal of virtual assets.

Sole paragraph. The regulatory body or entity from the Federal Public Administration appointed by the Executive Branch may authorize the provision of other services that are directly or indirectly related to virtual assets service provider activities.

Article 6. The Executive Branch will define one or more entities to regulate and supervise virtual asset service provider operations.

Article 7. The regulatory body or entity appointed by the Executive Branch is responsible for the following:

I – authorizing the operation, transfer of control, merger, spin-off, and incorporation of virtual asset service providers;

II – establishing conditions for assuming roles in statutory bodies, contractual requirements for virtual asset service providers, and authorizing people to hold management positions;

III – supervising virtual asset service providers and, in the event of non-compliance with this Law or its regulations, applying the provisions of Law No. 13,506 of November 13, 2017;

IV – canceling, either on an *ex officio* basis or upon request, the authorizations mentioned in items I and II of this provision;

V – providing for the circumstances under which the activities or transactions referred to in Article 3 of this Law can be conducted in foreign exchange markets, or in which they must submit to regulations for Brazilian capital abroad and foreign capital in Brazil.

Sole paragraph. The regulatory body or entity defined by the Executive Branch, mentioned in the head paragraph of this Article, will define the circumstances that may lead

to the cancelation of authorization provided for in item IV of the head provision of this article and its respective procedure.

Article 8. Institutions authorized to operate by the Brazilian Central Bank (Bacen) may exclusively provide virtual assets services or combine them with other activities in accordance with regulations to be issued by the regulatory body or entity defined by the Executive Branch, mentioned in the head paragraph of Article 2 of this Law.

Article 9. The regulatory body or entity defined by the Executive Branch, referred to in the head paragraph of Article 2 of this Law, will establish conditions and deadlines of no less than 6 (six) months for virtual asset service providers to adapt to the provisions of this Law and the regulations established by it.

Article 10. Article 171-A has been added to Decree-Law No. 2,848 of December 7, 1940 (Criminal Code), and is now in effect:

"Fraud using virtual assets, securities, or financial assets

Article 171-A. Organizing, managing, offering or distributing portfolios or intermediating transactions involving virtual assets, securities or any financial assets to obtain an illicit advantage, to the detriment of others, in a way that deceives or leads someone to be mistaken through artifice or other fraudulent means.

Penalty – 4 (four) to 8 (eight) years' imprisonment, and a fine."

Article 11. The sole paragraph of Article 1 of Law No. 7,492 of June 16, 1986, is effective with the following wording:

"Article 1.
Sole paragraph.

II – legal entities that offer services related to transactions with virtual assets, including intermediation, negotiation, or custody;" (New wording)

Article 12. Law No. 9,613 of March 3, 1998, is effective with the following changes:

"Article 1.

Paragraph 4. The severity of the penalty will be increased from 1/3 (one-third) to 2/3 (two-thirds) if the crimes defined in this Law are committed repeatedly, through a criminal organization, or through the use of virtual assets.

....." (New wording)

"Article 9."

Sole paragraph.

XIX – virtual asset service providers." (New wording)

"Article 10.

II – these providers will keep a record of all transactions in domestic or foreign currency, bonds and securities, credit instruments, metals, virtual assets, or any asset that can be converted into cash that exceeds the limit set by the competent authority and the terms of its rules;

....." (New wording)

"Article 12-A. An act from the Executive Branch will regulate the discipline and operation of the National Registry of Politically Exposed Persons (CNPEP), which can be accessed via the government's Transparency Portal (*Portal da Transparência*).

Paragraph 1. The bodies and entities within any branches of Brazil's Federal Government, States, Federal District and Municipalities must keep the CNPEP's manager informed about any of their current or former members that are classified as politically exposed persons (PEP) under current legislation and regulations. This should be done in the manner and at the frequency defined in the regulation referred to in the head provision of this Article.

Paragraph 2. The entities referred to in Article 9 of this Law will include the process of consulting the CNPEP among their standard procedures for complying with the obligations outlined in Articles 10 and 11 of this Law, without prejudice to other steps required under the legislation.

Paragraph 3. The CNPEP's managing body will transparently indicate, via the internet, any bodies and entities that fail to comply with the obligation outlined in Paragraph 1 of this article."

Article 13. The provisions of Law No. 8078 of September 11, 1990 (Consumer Defense Code) apply to transactions carried out in the virtual asset market, where applicable.

Article 14. This Law comes into effect one hundred and eighty (180) days after its official publication.