

CRYPTOASSETS & BLOCKCHAIN

Cyprus



Cryptoassets & Blockchain

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Quick reference guide enabling side-by-side comparison of local insights, including into the legal and regulatory framework; use of cryptoassets for investment, financing, trading and payments; cryptocurrency mining; blockchain and other distributed ledger technologies; and recent trends.

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GENERAL LEGAL AND REGULATORY FRAMEWORK

Legal framework

What legal framework governs cryptoassets? Is there specific legislation governing cryptoassets and businesses transacting with cryptoassets?

Cryptoassets in Cyprus are indirectly regulated by the Fifth EU Anti-Money Laundering Directive (5AMLD), which was transposed into Cyprus law by the national Anti-Money Laundering Law (the AML Law) in February 2021. The AML Law introduced key definitions relating to cryptoassets and cryptoasset service providers.

According to the AML Law, a cryptoasset is:

- Fiat currency;
- Electronic money; or
- Financial instruments as defined in Part III of the First Appendix of the Law on the Provision of Investment Services and Activities and Regulated Markets.

Cryptoasset service providers (CASPs) providing services within or from Cyprus are considered obliged entities with relevant anti-money laundering obligations. A CASP that provides one or more of the following services must register with the Cyprus Securities and Exchange Commission (CySEC):

- exchange between cryptoassets and fiat currencies;
- exchange between cryptoassets;
- management, transfer, holding or safekeeping, including custody, of cryptoassets or cryptographic keys or means that allow the exercise of control on cryptoassets;
- offer or sale of cryptoassets, including initial offerings; and
- participation or provision of financial services regarding the distribution, offer or sale of cryptoassets, including the initial offerings.

CASPs that are established and registered within an EU member state do not have to register with CySEC; rather, they must follow a notification procedure.

Financial services regarding the distribution, offer or sale of cryptoassets refers to the following services and activities relating to cryptoassets:

- reception and transmission of orders;
- execution of orders on behalf of clients;
- dealing on own account;
- portfolio management;
- provision of investment advice;
- underwriting or placing, or both, of cryptoassets on a firm commitment basis;
- placing of cryptoassets without a firm commitment basis; and
- operation of a multilateral trading facility for buying and selling cryptoassets.

Another important milestone in the development of the legal framework on cryptoassets and blockchain is the draft Bill

on Distributed Ledger Technology 2021, which is currently under public consultation and includes key definitions of cryptoassets, provisions on the ownership status of cryptoassets and provisions on smart contracts.

Regarding the treatment of cryptoassets that do not fall under the AML Law, the following laws may apply, depending on the characteristics of the cryptoassets:

- the Investment Services and Activities and Regulated Markets Law of 2017 (implementing the EU MiFID II Directive);
- the Alternative Investments Funds Law 2018;
- the Prospectus Law;
- the Crowdfunding Rules; and
- the Electronic Money Law 2012 and 2018.

Law stated - 14 January 2022

Government policy

How would you describe the government's general approach to the regulation of cryptoassets in your jurisdiction?

Owing to the absence of a general legal framework for cryptoassets, financial and regulatory technology and blockchain, in October 2018 CySEC launched its innovation hub with the aim of creating communication channels between CySEC and entities in the fields of fintech and regtech. Through the innovation hub, an entity receives an opinion on how its innovative project will be treated under the existing regulations under the supervision of CySEC. The hub also aims to enhance investors' protection and improve market efficiency.

In May 2019, the government published the National Blockchain Strategy, which aims to promote blockchain technology and other DLT, create a regulatory framework and advance the use of cases in the public and private sector.

Following the developments at the European and international level, the government aims to establish Cyprus as an attractive technological jurisdiction by enhancing legal certainty through its legal framework on distributed ledger technologies and regulating related products, such as cryptoassets. Further, it implemented the 5AMLD, introducing cryptoassets and cryptoasset service providers into Cyprus legislation, thus creating the appropriate legal framework for cryptoassets and cryptoasset-related business.

Law stated - 14 January 2022

Regulatory authorities

Which government authorities regulate cryptoassets and businesses transacting with cryptoassets?

CySEC is the responsible authority for the supervision of CASPs pursuant to the provisions of the AML Law.

Cryptoassets that are to be classified as means of payments should fall under the supervision of the Central Bank of Cyprus; however, no regulatory framework is in place.

Law stated - 14 January 2022

Regulatory penalties

What penalties can regulators impose for violations relating to cryptoassets?

According to the AML Law, CASPs have obligations to prevent and address money laundering risks. Their obligations include conducting due diligence checks and keeping records of transactions and suspicious transactions, etc. If CASPs fail to meet their obligations, they may be subject to fines or imprisonment.

Law stated - 14 January 2022

Court jurisdiction

Which courts have jurisdiction over disputes involving cryptoassets?

No specific courts have been designated for disputes involving cryptoassets; therefore, the nature of the dispute will determine which court has jurisdiction.

Law stated - 14 January 2022

Legal status of cryptocurrency

Is it legal to own or possess cryptocurrency, use cryptocurrency in commercial transactions and exchange cryptocurrency for local fiat currency in your jurisdiction?

There are no restrictions regarding the ownership and exchange of cryptocurrencies in Cyprus. Legal and natural persons may own and trade cryptocurrencies for investment purposes; however, CySEC and the Central Bank of Cyprus have issued warnings regarding the high volatility of cryptocurrencies and the risks that cryptocurrencies entail.

Law stated - 14 January 2022

Fiat currencies

What fiat currencies are commonly used in your jurisdiction?

The euro is the official fiat currency of Cyprus.

Law stated - 14 January 2022

Industry associations

What are the leading industry associations addressing legal and policy issues relating to cryptoassets?

Cyprus Blockchain Technologies (CBT) recently merged with the Cyprus Blockchain Association. The CBT is a non-government and non-profit organisation and is one of the leading organisations in the field. It organises training, executive seminars and conferences on blockchain matters and educates communities and organisations on the use of blockchain. Further, it is actively participating in government's efforts to create a blockchain-friendly environment that will embrace cryptoassets.

The Cyprus Bar Association, through its Technology Committee, provides guidance on cryptoassets through the

organisation of seminars for lawyers. In addition, the Technology Committee has provided extended comments on the draft Bill on Distributed Ledger Technology to address issues relating to cryptoassets.

Law stated - 14 January 2022

CRYPTOASSETS FOR INVESTMENT AND FINANCING

Regulatory threshold

What attributes do the regulators consider in determining whether a cryptoasset is subject to regulation under the laws in your jurisdiction?

Whether a cryptoasset will be subject to regulation depends on its characteristics. Since there is no official regulatory framework for the classification of cryptoassets in Cyprus, the relevant authorities apply the international practice standards for the classification.

A cryptoasset that qualifies as a financial instrument (eg, security token) will be subject to financial instrument laws. A cryptoasset that does not qualify as a financial instrument will be excluded from the scope of application of such legislation. Through a process of elimination, the classification of other cryptoassets will then take place.

A cryptoasset could be characterised as a utility token (providing access to the goods or services of the issuer) or a payment token (used as a mean of exchange, payment or consideration for the provision of goods or services).

To protect investors, the regulators also consider the potential risks that cryptoassets entail.

Law stated - 14 January 2022

Investor classification

How are investors in cryptoassets classified and treated differently?

There is no bespoke definition or specific classification of 'cryptoasset investor' under the Cyprus regulatory regime; however, definitions for investors under the MiFID II Directive may serve as a guidance.

Law stated - 14 January 2022

Initial coin offerings

What rules and restrictions govern the conduct of, and investment in, initial coin offerings (ICOs)?

The Cyprus Securities and Exchange Commission (CySEC) initially had an introverted approach towards ICOs and drew the attention of investors and firms involved in ICOs to the relevant warnings and statements of the European Securities and Markets Authority. CySEC wanted to emphasise that ICOs, depending on their structure, may fall within the scope of existing EU legislation.

The increasing interest in financial technology took CySEC a step further as it launched its Innovation Hub, giving guidance to innovative products, including token offerings that fall within the existing regulatory framework and, thus, under its supervision.

Following the amendments of the Anti-Money Laundering Law (the AML Law), an ICO that does not fall within the scope of any existing legislative framework (eg, STOs) may be considered as a service relating to cryptoassets pursuant to the AML Law; therefore, entities proceeding with such an ICO may be subject to registration and organisational compliance as a cryptoasset service provider (CASP).

There have been cases where Cyprus companies have been used for ICOs, mainly utility token offerings that do not fall within the existing financial regulatory framework; however, this has been to a limited extent.

The provisions of the AML law on CASPs is expected to bring back activity to ICOs.

When launching an ICO, an entity should, among other things, carefully consider:

- whether the tokens issued are considered as securities or financial instruments under MiFID II and general MiFID II compliance;
- whether the offering falls within the provisions of the Prospectus Directive;
- whether the offering qualifies as a licensed investment scheme;
- compliance with legislation on anti-money laundering (AML) and the General Data Protection Regulation; and
- possible tax implications for the parties involved.

Law stated - 14 January 2022

Security token offerings

What rules and restrictions govern the conduct of, and investment in, security token offerings (STOs)?

Security tokens are considered as financial instruments. Depending on the nature of the financial instrument represented by the security token, any entity that offers security tokens will be subject to any of the following legislation:

- the Investment Services and Activities and Regulated Markets Law of 2017 (implementing the European Union MiFID II Directive);
- the Alternative Investments Funds Law of 2018;
- the Prospectus Law; and
- the Crowdfunding Rules.

Law stated - 14 January 2022

Stablecoins

What rules and restrictions govern the issue of, and investment in, stablecoins?

There are no specific rules regarding stablecoins. The rules governing the issuance of and investment in stablecoins may depend on the type of asset that the stablecoin is pegged to.

Law stated - 14 January 2022

Airdrops

Are cryptoassets distributed by airdrop treated differently than other types of offering mechanisms?

The law does not differentiate between the rules on the treatment of cryptoassets distributed by airdrop and those on cryptoassets distributed by other types of offering mechanisms.

Law stated - 14 January 2022

Advertising and marketing

What laws and regulations govern the advertising and marketing of cryptoassets used for investment and financing?

Cryptoassets that are classed as financial instruments (eg, shares and bonds) will be subject to specific rules governing the issuance and marketing of financial instruments. In effect, the rules under the Investment Services Law, the Prospectus Regulation, the Crowdfunding Rules, etc, may be applicable in respect of advertising and marketing during the offering of cryptoassets that are qualified as financial instruments.

Law stated - 14 January 2022

Trading restrictions

Are investors in an ICO/STO/stablecoin subject to any restrictions on their trading after the initial offering?

In the absence of a specific regulatory framework on the trading of cryptoassets after the initial offering, investors should follow the developments and have access to the circulars issued by the responsible authorities (CySEC, the Central Bank of Cyprus, etc). The trading restrictions on the secondary market depend on the rules of the operation of the relevant trading platform.

Law stated - 14 January 2022

Crowdfunding

How are crowdfunding and cryptoasset offerings treated differently under the law?

Crowdfunding and cryptoasset offerings are treated differently in Cyprus.

There is a specific legal framework governing crowdfunding. Crowdfunding in Cyprus is regulated under the Investment Services and Activities and Regulated Markets Law and the Crowdfunding Directive issued by CySEC. The Directive regulates the provision of crowdfunding services by crowdfunding service providers and constitutes a supplement of the law, with the aim of enhancing the protection of investors during crowdfunding through the issuance of transferable securities.

The existing legal framework does not regulate other forms of crowdfunding, such as loans, rewards and donations. According to the provisions of the Crowdfunding Rules and the EU Regulation on the provision of crowdfunding services, crowdfunding service providers must obtain a licence prior to the provision of their services.

Law stated - 14 January 2022

Transfer agents and share registrars

What laws and regulations govern cryptoasset transfer agents and share registrars?

According to the provisions of the AML Law, any person (natural or legal) that provides services regarding the transfer or exchange of cryptoassets (crypto to crypto and crypto to fiat) must register with CySEC. Once they are registered with CySEC, they will be subject to AML obligations deriving from the AML Law and the directives issued by CySEC.

Law stated - 14 January 2022

Anti-money laundering and know-your-customer compliance

What anti-money laundering (AML) and know-your-customer (KYC) requirements and guidelines apply to the offering of cryptoassets?

Under the AML Law, CASPs must perform customer due diligence when they carry out an individual transaction amounting to or exceeding €1,000, regardless of whether the transaction is carried out as a single transaction or as several connected transactions.

Further, during the offering of cryptoassets, and at all times, the obliged entities must:

- establish KYC and other due diligence measures;
- maintain a record of clients;
- monitor transactions and report suspicious transactions to the authorities; and
- establish sufficient policies and procedures for risk management and other relevant obligations.

Law stated - 14 January 2022

Sanctions and Financial Action Task Force compliance

What laws and regulations apply in the context of cryptoassets to enforce government sanctions, anti-terrorism financing principles, and Financial Action Task Force (FATF) standards?

Obliged entities must follow the provisions of the AML Law and the guidelines issued by the Cyprus Securities and Exchange Commission, the Central Bank of Cyprus and the Cyprus Bar Association.

Law stated - 14 January 2022

CRYPTOASSET TRADING

Fiat currency transactions

What rules and restrictions govern the exchange of fiat currency and cryptoassets?

Exchange between fiat currency and cryptoassets is a service that is subject to the provisions of the Anti-Money Laundering Law (the AML Law), if the cryptoasset is not a fiat currency, electronic money or a financial instrument pursuant to the Investment Services Law. A cryptoasset service provider that provides services regarding the exchange of fiat currency and cryptoassets is obliged to register with the Cyprus Securities and Exchange Commission (CySEC), and it is an obliged entity with relevant AML obligations.

Law stated - 14 January 2022

Exchanges and secondary markets

Where are investors allowed to trade cryptoassets? How are exchanges, alternative trading systems and secondary markets for cryptoassets regulated?

Exchanges and secondary markets providing services regarding the trading of cryptoassets are subject to the provisions of the AML Law, and they must register with CySEC to provide their services. The entities will be considered obliged entities for the purposes of AML.

Law stated - 14 January 2022

Custody

How are cryptoasset custodians regulated?

Cryptoasset custodians must register with CySEC prior to the provision of their services, in accordance with the provisions of the AML Law. They must follow the relevant AML obligations at all times.

Law stated - 14 January 2022

Broker-dealers

How are cryptoasset broker-dealers regulated?

Cryptoasset broker-dealers must register with CySEC prior to the provision of their services. They are also subject to relevant AML obligations.

Law stated - 14 January 2022

Decentralised exchanges

What is the legal status of decentralised cryptoasset exchanges?

Cryptoasset exchanges are subject to the provisions of the AML Law; however, the AML Law does not differentiate between decentralised and centralised cryptoasset exchanges.

Law stated - 14 January 2022

Peer-to-peer exchanges

What is the legal status of peer-to-peer (person-to-person) transfers of cryptoassets?

Peer-to-peer transfer of cryptoassets is not regulated in Cyprus.

Law stated - 14 January 2022

Trading with anonymous parties

Does the law permit trading cryptoassets with anonymous parties?

The law does not prohibit the trading of cryptoassets with anonymous parties; however, given that there are high risks in those transactions, the service providers must take precautionary measures to prevent and address any money laundering and terrorist financing risks.

Law stated - 14 January 2022

Foreign exchanges

Are foreign cryptocurrency exchanges subject to your jurisdiction's laws and regulations governing cryptoasset exchanges?

Any foreign cryptocurrency exchanges that provide their services within or from Cyprus should register with CySEC prior to the provision of their services within or from Cyprus. Following their registration, the entities will be subject to the provisions of the AML Law regarding the offering of their services.

Law stated - 14 January 2022

Under what circumstances may a citizen of your jurisdiction lawfully exchange cryptoassets on a foreign exchange?

There is no specific legislation regarding the exchange of cryptoassets on a foreign exchange by a Cyprus citizen.

Law stated - 14 January 2022

Taxes

Do any tax liabilities arise in the exchange of cryptoassets (for both other cryptoassets and fiat currencies)?

Yes, this depends on the nature of the cryptoassets that are being traded.

Law stated - 14 January 2022

CRYPTOASSETS USED FOR PAYMENTS

Government-recognised assets

Has the government recognised any cryptoassets as a lawful form of payment or issued its own cryptoassets?

The government has not recognised any cryptoasset as a lawful form of payment, nor has it issued its own cryptoassets.

Law stated - 14 January 2022

Bitcoin

Does Bitcoin have any special status among cryptoassets?

Bitcoin may be accepted by businesses as a mean of payment. It seems to be the most widely used cryptoasset.

Law stated - 14 January 2022

Banks and other financial institutions

Do any banks or other financial institutions allow cryptocurrency accounts?

Neither banks nor financial institutions allow the opening of cryptocurrency accounts.

Law stated - 14 January 2022

CRYPTOCURRENCY MINING

Legal status

What is the legal status of cryptocurrency mining activities?

There are no specific laws governing mining activities in Cyprus. Further, the Anti-Money Laundering Law does not include mining activities in its list of services offered by cryptoasset service providers.

Law stated - 14 January 2022

Government views

What views have been expressed by government officials regarding cryptocurrency mining?

There have been no official statements regarding cryptocurrency mining.

Law stated - 14 January 2022

Cryptocurrency mining licences

Are any licences required to engage in cryptocurrency mining?

Cryptocurrency mining is not characterised as an activity that requires the granting of a licence or registration with the Cyprus Securities and Exchange Commission.

Law stated - 14 January 2022

Taxes

How is the acquisition of cryptocurrency by cryptocurrency mining taxed?

Direct tax

Even though there are no specific provisions in Cyprus legislation regarding the tax treatment of cryptoassets and mining activities, it appears that if someone earns cryptocurrency by mining it, or receives it as a promotion or as payment for goods or services, it counts as part of their regular taxable income; therefore, miners will be taxed on their net profits as follows:

- If the miner is a company, it will be taxed at a rate of 12.5 per cent; and
- If the miner is a self-employed person, he or she will be taxed based on the following rates:
 - taxable income up to €19,500: zero per cent;
 - taxable income between €19,501 and €28,000: 20 per cent;
 - taxable income between €28,001 and €36,300: 25 per cent;
 - taxable income between €36,301 and €60,000: 30 per cent; and
 - taxable income between €60,000 and €100,000: 35 per cent.

Indirect tax (VAT)

Regarding the imposition of indirect tax on mining activities, there are no specific provisions in the VAT Law addressing

it. Such services qualify as economic activity; however, they may be exempt from VAT under article 135(1)(d) of the VAT Directive: 'transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection.'

Law stated - 14 January 2022

BLOCKCHAIN AND OTHER DISTRIBUTED LEDGER TECHNOLOGIES

Node licensing

Are any licences required to operate a blockchain/DLT node?

There are no licence requirements regarding the operation of a blockchain/DLT node. It is expected that the operation of a DLT node will be outside the scope of the upcoming national DLT law.

Law stated - 14 January 2022

Restrictions on node operations

Is the operation of a blockchain/DLT node subject to any restrictions?

The operation of a blockchain/DLT node is subject to restrictions to the extent that it relates to the offering of services regulated by the Anti-Money Laundering Law.

Law stated - 14 January 2022

DAO liabilities

What legal liabilities do the participants in a decentralised autonomous organisation (DAO) have?

There are no references in Cyprus law to the legal liabilities of a participant in a decentralised autonomous organisation.

Law stated - 14 January 2022

DAO assets

Who owns the assets of a DAO?

Since there are no laws governing operation and transactions on a DAO, the ownership requirements for those assets shall be assessed based on any applicable laws regarding the asset.

Law stated - 14 January 2022

Open source

Is DLT based on open-source protocols or software treated differently under the law than private DLT?

The law does not distinguish treatment of DLT based on open-source protocols and private DLT.

Law stated - 14 January 2022

Smart contracts

Are smart contracts legally enforceable?

There is no definite answer on whether smart contracts are legally enforceable in Cyprus since there is no legal framework and no precedent by the courts regarding their treatment. Further, the automatic character of smart contracts and their characteristics may raise questions regarding compliance with Cyprus contract law; thus, issues may arise regarding the intention of the parties, revocation, frustration or breach of contacts.

The Bill on DLT includes provisions on the treatment of smart contracts and provides that Cyprus contract law shall apply to smart contracts.

Law stated - 14 January 2022

Patents

Can blockchain/DLT technology be patented?

Under the Patent Law (Law 16(I)/1998) as amended, for a patent to be granted, the invention must:

- be novel;
- involve an inventive step; and
- be susceptible of industrial application.

However, schemes, rules and methods for performing economic activities and computer programs, as well as presentations of information, are explicitly excluded from being potentially patentable products.

Given the different nature of blockchain (as not being a computer program), even though blockchain cannot be patented as a technology, cases regarding its innovative use may be subject to patent registration if the conditions are met.

Law stated - 14 January 2022

UPDATE AND TRENDS

Recent developments

Are there any emerging trends, notable rulings or hot topics related to cryptoassets or blockchain in your jurisdiction?

The Bill on DLT, which includes provisions on the classification of tokens, the treatment of smart contracts and provisions on the ownership of tokens, shall be adopted in due course. It will clarify important issues on the classification of tokens and the enforceability of smart contracts in Cyprus.

Law stated - 14 January 2022

Jurisdictions

	Australia	Piper Alderman
	Austria	Schoenherr
	Cyprus	Kinanis LLC
	India	AZB & Partners
	Japan	Mori Hamada & Matsumoto
	Liechtenstein	Niedermüller Rechtsanwälte Attorneys at Law
	Luxembourg	CMS Luxembourg
	Mexico	Ramos, Ripoll & Schuster
	Portugal	Morais Leitão, Galvão Teles, Soares da Silva & Associados
	Singapore	RHTLaw Asia LLP
	South Korea	Bae, Kim & Lee LLC
	Switzerland	MLL Meyerlustenberger Lachenal Froriep Ltd
	Taiwan	Lee and Li Attorneys at Law
	Turkey	SRP Legal
	USA	Nelson Mullins Riley & Scarborough LLP