

Overview of virtual asset regulation in Ukraine

The crypto business has grown exponentially in recent years. Ukraine is no exception to this global trend, as local businesses are also at the forefront of crypto products and innovations (DeFi, NFTs, the metaverse and Web 3.0). However, legal uncertainty in Ukraine has created risks for the sustainable development of the local crypto industry and the investments of conventional business in digital assets.

This legal uncertainty has been addressed by the recently adopted legislation, which sets out a regulatory framework to minimise the risk and exposure of digital businesses in Ukraine. Although some provisions are framework in nature and secondary legislation is required, we believe that this new legislation will be a positive driver on the local market.

Adoption of the Law



Below we summarise the changes introduced by the Law



The Law defines that a virtual asset:

is an intangible benefit

has a cost and is built using a combination of electronic data

is not a payment instrument (a medium of exchange) and may not be exchanged for assets (goods), works or services

Virtual assets are divided between:



Secured

assets

certify proprietary rights (not a security interest), in particular the right to claim other objects of civil rights

“financial virtual assets” = secured virtual assets issued by Ukrainian entities or individuals, secured by:

currency valuables

securities or derivative financial instruments



Unsecured

assets

do not represent any such rights or assets

NB!



The types of securities that may back a virtual asset is to be determined by the National Securities and Stock Market Commission of Ukraine (the “**NSSMC**”). Secured virtual assets are not security instruments.



These regulators can mutually share information and databases to ensure crypto business oversight.

Licensed activities



A legal entity (both Ukrainian and non-Ukrainian residents) that intends to exercise activity on the virtual assets market must obtain a special permit to carry out the following services:



the custody or administration of virtual assets and/or virtual asset keys



the exchange of virtual assets



the transfer of virtual assets



the intermediary services, associated with virtual assets

Specific requirements have not yet been released. Nevertheless, the Law sets forth that an entity wishing to obtain a permit must meet with the below minimal requirements:



the irreproachable business reputation of shareholders, officials and UBOs in the sense of AML legislation



disclosure of the ownership structure and UBOs



a legitimate origin of funds comprising share capital



the necessary amount of share capital, which differs depending on the type of services and residential status

NSSMC permit

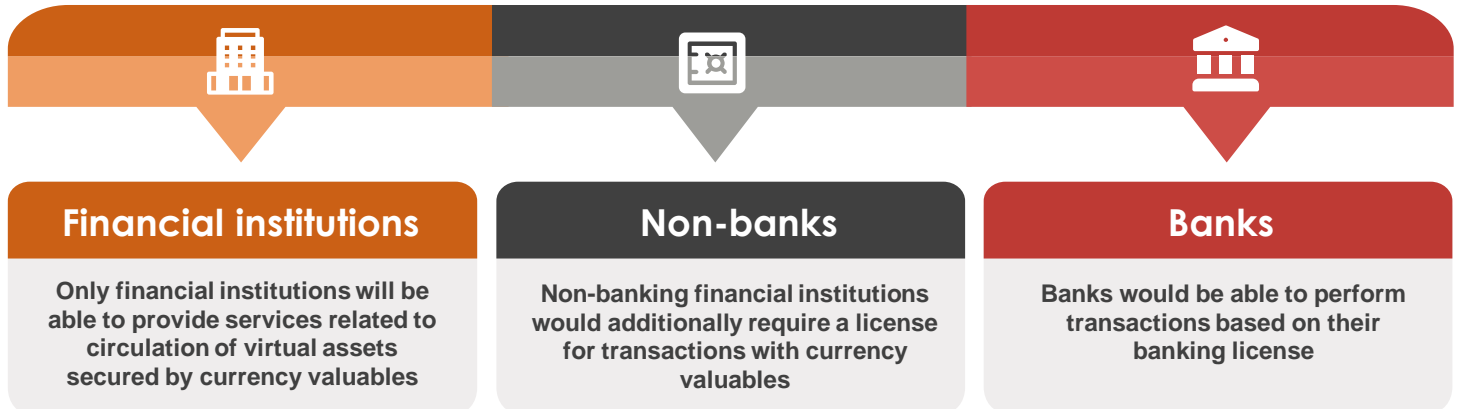


The NSSMC will be responsible for authorising entities that intend to carry out any of the above business activities. Such permit will be valid for one year and must be renewed.

NBU license



Apart from the NSSMC permit, the Law sets out additional licensing requirements for transactions or business activity with financial virtual assets.



Capital market license



In some cases, professional capital market participants will be able to deal with virtual assets without the permit contemplated by the Law.

Financial monitoring



The Law also incorporates new requirements for the financial monitoring of transactions with virtual assets. As soon as the Law comes into effect, any entity engaging in the transfer of virtual assets will have to act as a reporting entity under Ukrainian AML legislation. Entities performing the transfer/exchange of virtual assets will be required to provide specific information to initiate a transaction.

For more information, please contact:



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