



Virtual Assets Activity Regulation

Bank of Portugal Notice 3/2021 was published, which regulates the registration of entities that carry out activities with virtual assets.

It is important to start by clarifying what are Virtual Assets and what are Activities with Virtual Assets.

Virtual Assets

They are a digital representation of value that is not necessarily linked to a legally established currency and that does not have the legal status of physical currency, but that is accepted by individuals or collective entities as a means of exchange or investment and that can be transferred, stored and marketed electronically.

Examples are cryptocurrencies, such as Bitcoin.

Virtual Assets

Activity Regulation

Activities with virtual assets

They are any of the following economic activities, performed in the name or on behalf of a client:

- a) Exchange services between virtual assets and physical currencies;
- b) Exchange services between one or more virtual assets;
- c) Services through which a virtual asset is moved from one address or wallet (wallet to another (transfer of virtual assets));
- d) Guarding or guarding services and administration of virtual assets or instruments that allow controlling, holding, storing or transferring these assets, including private cryptographic keys.

Activity Location

Bank of Portugal clarified that the following persons or entities are considered to be active in Portugal:

- Collective entities or similar constituted in Portugal for the exercise of activities involving virtual assets;
- Individuals, collective entities or similar with domicile or establishment in Portugal assigned to the exercise of activities involving virtual assets;
- Other individuals, collective entities or similar who, due to the exercise of activities involving virtual assets, are required to submit a declaration of commencement of activity with the Tax Authority.

All activities that present other elements of connection with the national territory, will be treated by Bank of Portugal as unregulated activity.

Virtual Assets

Activity Regulation

The competence of Bank of Portugal and Alerts to users of virtual assets

Activities involving virtual assets can only be carried out by entities that obtain prior registration with Bank of Portugal. And this registration is mandatory even for the entities that already carried out another activity subject to authorization and qualification.

However, the powers of Bank of Portugal are limited to the prevention of Money Laundering and the Financing of Terrorism. There is, therefore, no supervision of a prudential, behavioural or other nature.

For this reason, Bank of Portugal and the European Entities issue the following alerts:

- *Virtual assets do not have a legal tender in Portugal, so their acceptance at face value is not mandatory;*
- *There is no legal protection that guarantees reimbursement rights for consumers who use virtual assets to make payments, unlike regulated payment instruments;*
- *In the event of partial or total devaluation of virtual assets, there is no fund to cover possible losses for its users, who will have to bear the entire risk associated with operations with these instruments;*
- *The user of virtual assets can lose his money on the trading platform;
Virtual asset transactions can be misused in criminal activities, including BC / FT.*

The full text of Notice no. 3/2011 is available here.

AMM.Team assists entities wishing to apply for registration with Bank of Portugal to carry out activities with virtual assets in Portugal ●