

# DONATO & ASOCIADOS

## Abogados

### *Crypto trading by Argentine banks banned*

On May 6, 2022, the Argentine Central Bank (BCRA) issued communication 7506 (the Communication).

The Communication banned regulated financial entities from trading, or enabling client's transactions with, digital or crypto assets or assets which yield is based on crypto assets, that are not authorized by a federal competent authority nor by the BCRA.

Given that no such authorization exists, the Communication implies a total ban of crypto trading by regulated financial entities.

The BCRA stated that the Communication's purpose was to mitigate the risks associated with such assets, both for clients and for the financial system.

A few days before the Communication, *Banco Galicia* and *Brubank*, two Argentine private Banks, had included the option to trade with certain top crypto currencies (BTC, ETH, etc.) in their platforms, thus prompting the BCRA to issue the Communication.

Banco Galicia offered the service on a custodial basis, with the back-up of *Lirium*, a crypto trading infrastructure provider. In the case of custodial crypto currencies trade, the exchange registers the balance held by the customer in an account but the same does not hold the public key, which is required to really own the crypto currency and is in possession of the exchange. To own the crypto, the investor must hold the public keys that are required to dispose of the crypto currency, which is achieved through wallets.

The BCRA did not identify the above-mentioned risks and, accordingly, no related policy was even outlined.

Under such circumstances, BCRA's move was linked to the latest requirements from IMF, aimed at discouraging the use of cryptocurrencies in Argentina.

One of the main risks associated with crypto services on a custodial basis is the theft of public keys, which result in the loss of the crypto currencies associated therewith.

In this respect, it should be noted that, although the original purpose of Bitcoin was to hold and transfer value outside the traditional financial system, instead of using wallets, many investors operate with exchanges or some sort of financial institution; wallets are software and devices used to generate private keys and transfer and receive Bitcoin and other crypto currencies without resorting to exchanges, which are platforms that are centralized and thus more vulnerable to hacks.

Another situation worth highlighting is that regulations do not take into account the features of each crypto currency, treating them all the same way, even though they are very different. Particularly, decentralization is not evaluated by the authorities, probably because they themselves are centralized institutions.

Decentralization is (together with advanced cryptography and game theory) one of the security tools that made Bitcoin a popular currency.

The use of decentralization and cryptography to underpin Bitcoin was clearly explained by Janet Yellen -US Treasury Secretary- on a remarkable speech on April 2022 at Kogod School of Business.

None of the foregoing aspects was taken into account by the BCRA, which thus follows the erratic path that other regulators have undertaken since Bitcoin started running in 2009, amidst the international financial meltdown caused by the US subprime mortgages market crack.

While the regulatory saga unfolds, Argentine residents continue to trade with bitcoin and other crypto currencies through until now unregulated exchanges such as Lemon Cash, Buenbit, Satoshi Tango, Ripio, etc. or through popular wallets such as Argentine designed Muun or Bitcoin side chains such as RSK.