

Virtual Asset Market Participants

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Abstract

The relevance of the topic is due to the need to specify the circle of participants in the virtual asset market, since participants are an important element of legal relations in the virtual asset market. However, a clear circle of them has not yet been formed. With the development of the virtual asset market, new participants emerged, which explains the need to specify their circle at the current stage of market formation. The need for such specification is also due to the fact that the role and importance of the virtual asset market for the economy of Ukraine, including for its post-war recovery, require urgent certainty regarding the legal framework for the market functioning, which, in particular, should concern participants, which will allow to solve a problem of regulation of other legal aspects of the market functioning. The purpose of the Art. is to specify the circle of the virtual assets marker participants and to substantiate their place and role in this market by means of classification. Based on the provided study, author specifies the circle of virtual assets marker participants, which are proposed to be divided into the following functional groups: 1) the main participants – virtual assets service providers, which, depending on the activities carried out, may be business entities, the range of which is presented in Art. 55 of the Commercial Code of Ukraine, business entities established under the laws of foreign states, as well as decentralized autonomous organizations functioning as virtual assets service providers; issuers (including miners); offerors; consumers; and individuals conducting transactions with virtual assets in their own interests; 2) participants with auxiliary functions that provide the necessary conditions for the functioning of the virtual asset market by providing services (banking, insurance, legal, consulting, etc.); 3) participants with special functions related to state regulation of the virtual asset market and self-regulatory organizations. The author suggests that the concept of "virtual asset market participant" should be properly enshrined in national legislation.

Key words: *virtual assets; virtual assets market; market participant; provider of services related to the turnover of virtual assets; market infrastructure; state regulation of the market.*

Учасники ринку віртуальних активів

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Анотація

Актуальність теми зумовлена необхідністю конкретизації кола учасників ринку віртуальних активів, адже учасники є важливим елементом правовідносин на ринку віртуальних активів, а чітке їх коло і досі не сформовано. Із розвитком ринку віртуальних активів почали з'являтися нові учасники, що пояснює необхідність конкретизації їх кола на поточному етапі формування ринку. Необхідність такої конкретизації також зумовлено тим, що роль і значення ринку віртуальних активів для економіки держави, зокрема і для її повоєнного відновлення, вимагають невідкладної визначеності щодо правових засад функціонування ринку, які мають стосуватись учасників, що дозволить урегулювати інші правові аспекти функціонування цього ринку. Метою статті є конкретизація кола учасників ринку віртуальних активів та обґрунтування їх місця й ролі на цьому ринку, здійснивши їх класифікування. За результатами проведеного дослідження конкретизовано коло учасників ринку віртуальних активів,

яких запропоновано поділити на такі функціональні групи: 1) основні учасники – постачальники послуг, пов'язані з оборотом віртуальних активів, якими залежно від діяльності можуть бути суб'єкти господарювання, коло яких представлено у ст. 55 ГК України, суб'єкти господарювання, створені згідно із законодавством інших держав, а також децентралізовані автономні організації, що функціонують як постачальники послуг, пов'язаних з оборотом віртуальних активів; емітенти (в тому числі майнери), оференти; споживачі та особи, що здійснюють операції з віртуальними активами у власних інтересах; 2) учасники із допоміжними функціями, що забезпечують необхідні умови для функціонування ринку віртуальних активів, надаючи послуги (банківські, страхові, юридичні, консалтингові тощо); 3) учасники із спеціальними функціями, пов'язаними з державним регулюванням ринку віртуальних активів, а також саморегульвні організації. Висловлено пропозицію стосовно належного закріплення поняття «учасник ринку віртуальних активів» у національному законодавстві.

Ключові слова: віртуальні активи; ринок віртуальних активів; учасник ринку; постачальник послуг; пов'язаних з обігом віртуальних активів; інфраструктура ринку; державне регулювання ринку.

Introduction

Virtual assets market is an important part of the economy. J.-G. Dumas, S. Jimenez-Garces and F. Şoiman pointed out that stakeholders (interested parties in the virtual assets market) play an important role and can greatly influence the risks of this market, based on their role and degree of involvement [1, p. 2]. As it was stated by J. Almeida and T. Cruz Gonçalves, it is no surprise that the virtual assets market has attracted considerable attention from different parties: media, regulators, individual and institutional investors [2, pp. 1-2]. The study by A. Copestake, D. Furceri, P. Gonzalez-Dominguez emphasizes the interconnection between virtual asset market participants: the most sophisticated investors pay significant attention to government policy on virtual assets [3, p. 7].

Participants are an important element of legal relations in the virtual assets market, but their clear circle has not yet been formed. With the development of the virtual assets market, new participants emerged, which explains the need to specify their circle at the current stage of market formation. The need for such clarification is also due to the fact that the role and importance of the virtual asset market for the state's economy, including for its post-war recovery [4, p. 15], require urgent certainty regarding the legal basis for the market's functioning, which, in particular, should apply to participants, which will allow regulating other legal aspects of the market's functioning.

Provisions on virtual asset market participants are contained in the Law of Ukraine "On Virtual Assets", which has not yet entered into force due to the fact that the relevant amendments to the legislation related to the taxation of virtual assets have not been adopted. Some issues are covered by the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction". Meanwhile, an analysis of the legislation shows that its provisions regarding the range of market participants are not sufficiently developed.

The issues of legal regulation of the virtual asset market, and, in particular, certain aspects of virtual asset market participants functioning, have been the focus of attention of many Ukrainian and foreign legal scholars. Among the domestic scholars, the contributions of S.O. Hrytsai are worthy of note. He identified specific attributes of some virtual asset market participants [5]. It is also noteworthy to mention the contributions of R.A. Dzhabrailov, T.S. Hudima and V.A. Ustylenko, who co-authored a comprehensive analysis of the key priorities for the development of a legal framework for post-war economic recovery in Ukraine, and mentioned importance of the virtual asset market for the state's economy [4]. It should be noted that among the foreign scholars whose contributions to this field are worthy of particular mention are T. Ankenbrand, D. Bieri, T. Kronenberger and L. Reichmuth. Their research has identified the following market participants: companies which offer investment products and services related to cryptocurrencies; retail and private clients; corporations; family offices; banks and other financial institutions [6, p. 6]. K. Stylianou and N. Carter also mentioned crypto exchanges and miners [7]. However, all the participants were mentioned indirectly, and their circle was not specified, which indicates the relevance of the issue and the expediency of its study.

The purpose of this study is to specify the circle of virtual assets market participants and to substantiate their place and role in this market by classifying them.

Materials and Methods

The methodological basis of the study is the general scientific and special methods of scientific cognition used in legal science.

The dialectical method of scientific research made it possible to reveal the virtual asset market as a complex economic and legal phenomenon, its dynamics and connection with other legal phenomena.

The application of the comparative tools of the comparative legal method, which uses synchronic and diachronic methods, made it possible not only to outline the problem of determining the main vectors of modernization of Ukrainian legislation in the relevant area, but also to form a rational system of coordinates for further development of legal regulation of these relations.

The use of the techniques of the special legal (formal-dogmatic) method – classification and systematization – made it possible to study the set of legal rules governing relations in the field of virtual assets turnover. When applying the special legal method, legal norms were considered in three aspects: what kind of norm is in the law (draft law); whether it is applicable in this form in certain practical situations; what it should be ideally. The use of this method helped to clarify the textual meaning of regulatory provisions, provisions of draft laws and identify their essence.

The special legal method allowed us to interpret the meaning of certain terms and legal categories, such as "participants" and "subjects".

The method of technical and legal analysis and the general theoretical method with the use of certain means of normative design technique, to use and develop the general conceptual apparatus on the research topic.

With the help of the logical and legal method, the author made proposals for improving the legislation governing the virtual asset market.

Results and Discussion

Correlation between the categories of "subject" and "participant"

Starting the analysis with the characteristics of virtual asset market participants and based on the legislative definition of the term "virtual asset market participant", we can state that the legislator specifies the following participants: 1) virtual assets service providers; 2) any individual who, in his or her own interest, engages in transactions involving virtual assets (Para 12, Part 1, Art. 1 of the Law of Ukraine "On Virtual Assets").

Concurrently, an examination of scientific sources and legislative acts of Ukraine reveals two key developments. Firstly, there is a discernible shift towards a more expansive understanding of market participants. Secondly, there is a notable ambiguity surrounding the correlation between the concepts of "participant" and "subject".

The textbook on economic law edited by V.S. Shcherbyna states that commercial relations are characterized by a limited range of subjects in comparison with civil law, and such subjects are participants in relations in the field of economic activity, which actually equates these concepts [8, p. 17]. Similarly, V.I. Polyukhovych posits that the concepts of "subject" and "participant" in the context of the securities market are essentially synonymous [9, p. 198]. It should be noted that N.B. Patsuriya concluded that the concept of a "participant" in insurance legal relations is broader than the concept of a "subject" [10, p. 331]. O.V. Kolohoida observed that the terms "participant" and "subject" of stock exchange relations should be distinguished based on the degree of participation in legal relations. She proposed that only those participants engaged in stock exchange relations directly, exercising their specialized economic competencies in the issuance (issue) of securities and their

derivatives, investment, professional activities on the stock exchange, or its management, should be recognized as subjects [11, pp. 80-81].

The Commercial Code of Ukraine distinguishes between the concepts of "participant in relations in the field of economic activity" (Art. 2) and "subject of economic activity" (Art. 55), recognizing the former as broader and covering the latter.

In the Scientific and Practical Commentary to the Commercial Code of Ukraine, edited by V.K. Mamutov, it is observed that the concept of "participant in relations in the field of economic activity" is a generalized one, indicating the diversity of such participants and determining the specifics of the legal status of each of them. The primary criterion by which these distinctive characteristics are defined is economic in nature, specifically the proximity of a particular participant to direct economic activity. Upon entering into economic legal relations, these participants assume a purely legal quality, becoming subjects of these legal relations [12, p. 16].

From the aforementioned evidence, it can be concluded that participants in the virtual assets market are granted the status of subjects within this market upon entering into direct legal relations within the market. Therefore, it is essential to differentiate between the concepts of "participant" and "subject" based on the extent of their involvement in legal relations within the virtual assets market. Concurrently, the degree of participation does not directly determine the circle of participants. Consequently, when analyzing the scientific literature, it is possible to refer to the works of both those scholars who have identified participants in certain relations and those who have identified subjects.

Classification of virtual assets market participants into functional groups

In order to proceed directly to the specification of the circle of virtual assets market participants, it seems appropriate to rely on the understanding of the circle of participants in economic relations set out in Art. 2 of the Commercial Code of Ukraine. It is important to note that the virtual assets market is not solely characterized by economic relations. In fact, a multitude of other relations, including civil and administrative relations, emerge within this market. Consequently, the circle of participants encompasses not only economic relations participants but also, for instance, civil relations participants, such as consumers as defined by the Ukrainian Law "On Protection of Consumer Rights".

In the Great Ukrainian Legal Encyclopedia, edited by V.A. Ustymenko, the following subjects of the stock market (securities market) are identified: issuers, investment investors, professional stock market participants, associations of professional stock market participants (including self-regulatory organizations), subjects of organizational and economic powers vested with economic competence in the state regulation of relations in the stock market, and individuals, public and other organizations acting as individual investors. [13, p. 733].

Yu.M. Pavliuchenko specifies the subjects of the agricultural market and divides them into functional groups: 1) main subjects – agricultural producers (as the first sellers), professional traders of agricultural products, buyers (economic entities that purchase products for the needs of production activities or other economic needs); 2) subjects with auxiliary functions to ensure and facilitate the sale of agricultural products (grain storehouses, carriers, etc.); 3) subjects with special functions related to the state regulation of the agricultural market - subjects of organizational and economic powers [14, p. 385].

Given the above scientific literature and analysis of the legislation on virtual assets market regulation, it seems possible to specify the range of participants in the virtual asset market by dividing them into the following functional groups: 1) main participants; 2) participants with auxiliary functions; 3) participants with special functions related to the regulation of the virtual assets market.

Main virtual assets market participants

The leading role among the main participants in the virtual asset market is played by virtual assets service providers. They are exclusively business entities – legal entities that carry out one or more of the following activities in the interests of third parties: storage or administration of virtual assets or virtual asset keys; exchange of virtual assets; transfer of virtual assets; provision of intermediary services related to virtual assets (Para 8, Part 1, Art. 1 of the Law of Ukraine "On Virtual Assets").

That is, providers of such services carry out business activities in the virtual asset market and are business entities, the range of which is presented in Art. 55 of the Commercial Code of Ukraine, and acquire the status of a market participant if they carry out certain types of business activities that are directly prescribed by the law.

It should also be noted that in accordance with Part 6 of Art. 9 of the Law of Ukraine "On Virtual Assets", a foreign legal entity that is a participant in the market of virtual assets and is subject to the law of a foreign state may act as a virtual assets service providers in accordance with the procedure and under the conditions established by the National Securities and Exchange Commission, taking into account the requirements and restrictions established by the legislation.

At the same time, only a financial institution can provide services related to the circulation of virtual assets secured by monetary values (Part 6 of Art. 9 of the Law of Ukraine "On Virtual Assets"). This includes both banks and non-bank financial institutions.

In the context of a service provider related to the circulation of virtual assets, it is also worth mentioning a Decentralized Autonomous Organization (DAO), which can actually perform certain functions of a service provider, but without any legitimation. S. Van Kerckhoven, U.W. Chohan noted that the key terms in the DAO acronym help to partially explain its essence: "Decentralization" (D) refers to the possibility of dispersing the participant base through blockchain-based technologies. "Autonomy" (A) means that a DAO should be able to act autonomously on the basis of available information, i.e. without external interference, automatically executing pre-programmed commands [15, pp. 2-3]. U.W. Chohan also summarized that in 2021 Wyoming became the first US state to recognize a DAO as a legal entity, and CryptoFed DAO became the first business entity to be recognized in this way. Although the legal status of a DAO is often unclear, functionally a DAO can be a corporation without legal status [16, pp. 7-8]. In this context, it is interesting to note the opinion of K. Nekit that "in the information society, new participants in civil relations, whose legal status has not yet been determined, but whose existence cannot be denied, are new participants in civil relations" [17, p. 87].

From the above it can be seen that DAO can perform as a virtual assets service providers and, in certain jurisdictions, may even have the same status as a legal entity.

In other words, legal entities established under the laws of Ukraine or of a foreign state that have been granted an appropriate permit to conduct such activities, as well as Decentralized Autonomous Organizations, may act as such a participant in the virtual assets market as a virtual assets service provider.

In analyzing the first group of participants, it is notable that the scientific literature indicates that the legislation does not explicitly mention miners engaged in the mining of cryptocurrencies among the virtual asset service providers [5, p. 156]. While this assertion is largely accurate, it is important to recognize that the activities of mining and the issuance of virtual assets are not explicitly included in the scope of services provided by virtual asset service providers.

The Law of Ukraine "On Virtual Assets" indirectly mentions such a participant as an issuer of virtual assets (Articles 4, 16), although it does not disclose it in any way. Such gaps are eliminated by the draft laws amending the Law of Ukraine "On Virtual Assets": Draft Law on Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine on Regulation of the Turnover of Virtual Assets in Ukraine No. 10225 dated 07.11.2023 (hereinafter also referred to as the Main Draft Law

No. 10225) and its alternative No. 10225-1 (hereinafter also referred to as the Alternative Draft Law No. 10225-1).

An issuer is a legal entity, including one established under the laws of another state, or another participant in civil relations in accordance with the Civil Code of Ukraine, which issues virtual assets (Para 7, Part 1, Art. 2 of the Main Draft Law No. 10225). At the same time, Para 6 of the same Art. defines "issuance" as the creation of virtual assets, including the preliminary creation of virtual assets (by creating all tokens of an issue prior to a public offering or admission to trading), the ongoing creation of virtual assets (including as a result of mining) and the creation of virtual assets in any other way that is not prohibited by the National Securities and Stock Market Commission and/or the National Bank of Ukraine as such, which may lead to abuse of the virtual asset market. The alternative draft law No. 10225-1 in Para 6, 7 of Part 1 of Art. 1 contains the same definition of an issuer and slightly changes the definition of an issue, excluding the reference to the need to use this particular method of issue that is not prohibited by the National Securities and Stock Market Commission and/or the National Bank of Ukraine.

In light of the aforementioned evidence, it can be posited that the issuer is a participant in the virtual asset market, a category that encompasses the miner of the virtual asset.

It is noteworthy that both draft laws introduce another market participant. Para 17 of Part 1 of Art. 1 of the Alternative Draft Law No. 10225-1 provides the term "offeror" which is defined as "an individual or a legal entity that makes a public offering of virtual assets not issued by them or an issuer that makes a public offering of virtual assets issued by them". A public offering of virtual assets is defined as a notification to third parties in any form and by any means containing sufficient information about the terms of the offer and the virtual assets being offered, enabling potential owners to make an informed decision to purchase such virtual assets. (Para 19, Part 1, Art. 1 of the Alternative Draft Law No. 10225-1). Experts in the virtual asset market refer to a public offering of virtual assets as an Initial Coin Offering, or ICO. Summarizing the scientific approach, A.C. Moxotó and her colleagues have provided a summary of the scientific approach, noting that ICOs are becoming an increasingly popular method for raising capital for blockchain startups [18, p. 4178].

The issuer also acquires the status of an offeror if it conducts a public offering of virtual assets it has issued. However, the offeror may also make a public offer of virtual assets not issued by it, which allows the offeror to be distinguished as a separate participant in the virtual asset market.

The next major participant in the virtual asset market is the consumer. Obviously, since there are providers of services related to the turnover of virtual assets, there are also customers (clients) of such services. In the view of I.A. Avanesova, Ukrainian legislation is undergoing a period of active development in the field of the regulation of the protection of the rights and interests of consumers of financial services. The main list of legislative acts containing rules of protection of the rights of consumers of financial services includes the Law of Ukraine "On Virtual Assets" [19, p. 16]. However, the Law of Ukraine "On Virtual Assets" still refers to the fact that the specifics of consumer protection of financial services, as well as services related to the turnover of virtual assets, are determined by the relevant laws.

It is also noteworthy to mention another significant participant in the virtual assets market, as explicitly outlined in the current iteration of Ukraine's "On Virtual Assets" legislation. This individual conducts transactions with virtual assets in his or her own interest. While they may not utilize the services of virtual assets service providers, they are entitled to possess and transfer virtual assets, provided that their actions are aligned with their personal interests. This thesis can be supported by Part 5 of Art. 16 of the Alternative Draft Law No. 10225-1, which states that the exchange of virtual assets for cash between two individuals acting on their own behalf and in their own interest is not considered to be the provision of a service for the exchange of virtual assets for cash. Therefore, if an individual conducts transactions in virtual assets in his or her own interest without using the services of the provider, such individual is an independent participant in the virtual assets market.

Virtual assets market participants with auxiliary functions

As for the next group of participants with auxiliary functions in the virtual assets market, it should be noted that they constitute the virtual assets market infrastructure. A.H. Bobkova and Yu.M. Pavliuchenko recognized business entities, institutions, organizations that ensure interaction between participants in relations in the field of environmental entrepreneurship, provide financial, consulting, marketing, information and communication, legal, educational and other services to ensure the organization and implementation of environmental entrepreneurship as subjects of environmental entrepreneurship infrastructure [20, p. 59].

V.V. Reznikova noted that depending on their position in the real estate market, all its participants can be divided into three groups: 1) sellers; 2) buyers; 3) service infrastructure, which should also include business entities – intermediaries (professional participants in the real estate market). Professional intermediaries in the real estate market include: brokers, who provide services to sellers and buyers in real estate transactions; developers, who are engaged in the creation and development of real estate, including the organization and financing of investment projects, design and construction, full or partial sale of objects or their lease (both independently and with the involvement of other real estate market participants, developers and investors); redevelopers, who are engaged in the development and transformation (secondary development) of territories; property managers, who are engaged in the financial management and technical operation of real estate objects; analysts, who forecast, prepare, organize and/or support business operations in the real estate market [21, p. 360].

It seems that in the virtual asset market the purpose of this group of participants is to create appropriate conditions for the effective functioning of the market and to ensure its stable operation. At the same time, it should be noted that in the proposed classification of participants in the virtual asset market, the concept of infrastructure covers only those who do not participate in transactions with virtual assets, but create the necessary conditions for the functioning of the virtual asset market by providing services (banking, insurance, legal, consulting, etc.) to other participants.

Virtual assets market participants with special functions related to the regulation of the virtual assets market

Regarding participants with specific functions in relation to the regulation of the virtual asset market, the following should be noted.

The law refers to the state as a participant in relations in the sphere of circulation of virtual assets (Para 7, Part 1, Art. 1 of the Law of Ukraine "On Virtual Assets"). Implementation by the state of comprehensive measures for regulation, control and supervision of the market of virtual assets, regulation of the rules of operation of service providers in connection with the circulation of virtual assets, as well as measures to prevent and counteract abuses and violations in the market of virtual assets is a state regulation of the market of virtual assets (Part 1, Art. 16 of the Law of Ukraine "On Virtual Assets").

A.M. Zakharchenko concurred with the proposition that the state, in its capacity as a public legal entity, is a party to relations within the sphere of economic activity. However, he additionally posited that public authorities act on behalf of the state [22, p. 79].

Therefore, in the virtual assets market, public authorities are responsible for rationalization, control, supervision, and regulation of the rules of operation of service providers in connection with the circulation of virtual assets, as well as measures to prevent and counteract abuses and violations in the market.

At the same time, it should be noted that given the contradiction between Art. 16 of the Law of Ukraine "On Virtual Assets" and Paragraph 5 of Part 1 of Art. 18 of the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" in terms of defining the system of state authorities carrying out state regulation of the virtual assets market, the specification of the

above system should be the subject of a separate study. However, the above does not contradict the conclusion that the state authorities responsible for state regulation of the market are participants in the virtual asset market.

Meanwhile, the virtual asset market is not regulated by public authorities alone. Combining different instruments and regulatory strategies in the best possible way is called "smart regulation" [23, p. 21].

In addition to public authorities, such influence is exercised by self-regulatory organizations – non-profit associations of various organizational and legal forms, which are not aimed at making profit from the economic activities of their members, based on the membership of business entities united by a common professional orientation of their economic activities in the field of production or in the market of services (goods), whose main functions are to regulate the activities of their members by establishing additional rules and standards for carrying out professional activities in a particular sector of the state economy, to represent the interests of their members and to bring to justice those responsible for violating the norms of the current legislation of Ukraine and the additional rules and standards developed and adopted by a particular self-regulatory organization [13, p. 614]. Some self-regulatory organizations are established as quasi-public entities. However, most others are established as public organizations [24, p. 13]. In Ukraine, the Public Union "Virtual Assets of Ukraine" was established in November 2020 by the non-governmental organization "Blockchain4Ukraine", the blockchain ecosystem "Binance", and the law firms "Juscutum" and "Arzinger". Its stated objective is the launch of a virtual asset market in Ukraine, as well as the implementation of blockchain technology in key business and public sectors [25].

Thus, self-regulatory organizations are virtual assets market participants whose activity is to regulate social relations in the virtual asset market by establishing appropriate standards or rules, as well as to monitor compliance with the requirements provided by them on the basis of association in specially created organizations.

Proposals for Improving Ukrainian legislation on the turnover of virtual assets

The aforementioned range of participants in the market of virtual assets appears to be an appropriate subject for inclusion in Para 12, Part 1, Art. 1 of the Law of Ukraine "On Virtual Assets". This would entail the statement that participants in the market of virtual assets are virtual assets service providers; issuers; offerors; consumers; individuals who conduct transactions with virtual assets in their own interest; public authorities with the power to regulate the market of virtual assets; self-regulatory organizations; and creators of the necessary conditions for the functioning of the market of virtual assets.

Conclusions

Based on the provided study, the author specifies the range of participants in the virtual assets market, which are proposed to be divided into the following functional groups:

- 1) the main participants – virtual assets service providers, which, depending on the activities carried out, may be business entities, the range of which is presented in Art. 55 of the Commercial Code of Ukraine, business entities established under the laws of foreign states, as well as decentralized autonomous organizations functioning as virtual assets service providers; issuers (including miners); offerors; consumers; and individuals conducting transactions with virtual assets in their own interests.
- 2) participants with auxiliary functions that provide the necessary conditions for the functioning of the virtual asset market by providing services (banking, insurance, legal, consulting, etc.).
- 3) participants with special functions related to state regulation of the virtual asset market and self-regulatory organizations.

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interest; public authorities with the power to regulate the market of virtual assets; self-regulatory organizations; and creators of the necessary conditions for the functioning of the market of virtual assets.

Further research is required on the legal regulation of the virtual asset market, with a particular focus on the system of state regulatory authorities governing the virtual asset market.

Recommendations

The article's contents are of value to those engaged in the process of rulemaking, including attorneys, legal advisers, and employees of public authorities responsible for regulating the virtual asset market.

References

- [1] Dumas, J.-G., Jimenez-Garces, S., & Şoiman, F. (March, 2021). Blockchain technology and crypto-assets market analysis: vulnerabilities and risk assessment. In *12th International Conference on Complexity, Informatics and Cybernetics* (pp. 30-37). Orlando: International Institution of Informatics and Systemics. Orlando, United States. Retrieved from <https://hal.science/hal-03112920v2/file/HAL%20Version.pdf/>.
- [2] Almeida, J., & Gonçalves, T.C. (2023). A Decade of Cryptocurrency Investment Literature: A Cluster-Based Systematic Analysis. *International Journal of Financial Studies*, 11(2), 71. <https://doi.org/10.3390/ijfs11020071>.
- [3] Copestake, A., Furceri, D., & Gonzalez-Dominguez, P. (2023). Crypto Market Responses to Digital Asset Policies. *Economics Letters*, 222, 110949. <https://doi.org/10.1016/j.econlet.2022.110949>.
- [4] Ustymenko, V., Dzhabrailov, R., & Hudima, T. (2023). Priority Directions for the Formation of a Legal Framework for Post-War Economic Recovery in Ukraine. *Law of Ukraine*, 9, 9-23. <https://doi.org/10.33498/louu-2023-09-009>.
- [5] Hrytsai, S.O. (2022). Members of the virtual assets market in Ukraine. *Dnipro Scientific Journal of Public Administration, Psychology, Law*, 3, 152-157. <https://doi.org/10.51547/ppp.dp.ua/2022.3.25>.
- [6] Ankenbrand, T., Bieri, D., Kronenberger, T., & Reichmuth, L. (2022). *Crypto Assets Study 2022. An overview of the Swiss and Liechtenstein crypto assets ecosystem*. Hochschule Luzern - Wirtschaft / Institut für Finanzdienstleistungen Zug IFZ (p. 41). <https://doi.org/10.5281/zenodo.7085516/>.
- [7] Stylianou, K., & Carter, N. (December, 2020). The Size of the Crypto Economy: Calculating Market Shares of Cryptoassets, Exchanges and Mining Pools. *Journal of Competition Law & Economics*, 16(4), 511-551. <https://doi.org/10.1093/joclec/nhaa016>.
- [8] Shcherbyna, V.S., & Reznikova, V.V. (Eds.). (2023). *Economic Law (General part)*. Lira-K.
- [9] Polyukhovych, V.I. (2012). *State Regulation of the Stock Market of Ukraine: Economic and Legal Mechanism*. Kyiv. Retrieved from <https://repository.ndipp.gov.ua/bitstream/handle/765432198/475/Polyukhovych%202012.pdf?sequence=1&isAllowed=y>.
- [10] Patsuriia, N.B. (2013). *Insurance Legal Relations in the Sphere of Economic Activity: Problems of Theory and Practice*. Nizhyn: "Aspekt-Polihraf". Retrieved from https://library.nlu.edu.ua/POLN_TEXT/POSIBNIKI_2020/Patsuria_2013_mon.pdf.
- [11] Kolohoida, O.V. (2016). *Theoretical Issues of the Economic Relations Regulation in the Ukrainian Stock Market*. Doctoral Thesis. Kyiv: Taras Shevchenko National University of Kyiv.
- [12] Mamutov, V.K. (Ed.). (2004). *Scientific and practical commentary on the Economic Code of Ukraine*. Kyiv: Yukinkom.
- [13] Ustymenko, V.A. (Ed.). (2019). *The great Ukrainian legal encyclopedia*. (Vols. 1-20). Vol. 15: *Economic Law*. Kharkiv: Pravo.
- [14] Pavliuchenko, Yu.M. (2021). *Economic and Legal Support of the Agricultural Market*. Doctoral Thesis. Kyiv: State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine".
- [15] Kerckhoven, S.V., & Chohan, U. (2024). *Decentralized Autonomous Organizations* (1st ed.). Routledge. Retrieved from <https://www.perlego.com/book/4342056>.
- [16] Chohan, U.W. (2017). *The Decentralized Autonomous Organization and Governance Issues*. *SSRN Electronic Journal*. <https://dx.doi.org/10.2139/ssrn.3082055>.
- [17] Nekit, K.G. (2021). *The Right to Private Property in the Information Society: Civil Theory and Practice of its Implementation*. Doctoral Thesis. Odesa: National University "Odesa Law Academy".

- [18] Moxoto, A.C., Melo, P., & Soukiazes, E. (January, 2021). Initial Coin Offering (ICO): a Systematic Review of the Literature. In *Proceedings of the 54th Hawaii International Conference on System Sciences* (p. 4177). <https://doi.org/10.24251/HICSS.2021.507>.
- [19] Avanesova, I.A. (2022). *Protecting the Rights of Financial Services Consumers*. Kyiv: State University of Trade and Economics. Retrieved from https://www.researchgate.net/profile/Iryna-Avanesova/publication/370266923_ZAHIST_PRAV_SPOZIVACIV_FINANSOVIH_POSLUG/links/6449015f85d21c32da7e839b/ZAHIST-PRAV-SPOZIVACIV-FINANSOVIH-POSLUG.pdf.
- [20] Bobkova, A.H., & Pavliuchenko, Yu.M. (2017). Participants of Relations in the Field of Ecological Entrepreneurship. *Entrepreneurship, Economy and Law*, 9, 56-61. Retrieved from <http://pgp-journal.kiev.ua/archive/2017/9/12.pdf>.
- [21] Reznikova, V.V. (2011). *Theoretical Problems of Mediation Regulation in the Sphere of Management in Ukraine*. Doctoral Thesis. Kyiv: Taras Shevchenko National University of Kyiv.
- [22] Zakharchenko, A.M. (2017). *State Property Management (Economic and Legal Aspects)*. Doctoral Thesis. Kyiv: State Organization "V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine".
- [23] Cappai, M. (2023). The Role of Private and Public Regulation in the Case Study of Crypto-Assets: The Italian Move Towards Participatory Regulation. *Computer Law & Security Review*, 49.105831. <https://doi.org/10.1016/j.clsr.2023.105831>.
- [24] Govorun, A.V. (2021). *Self-Regulatory Organizations in the Mechanism of Legal Economic Order*. Ph.D. Thesis. Kharkiv: Yaroslav Mudryi National Law University.
- [25] Virtual Assets of Ukraine (VAU). (n.d.). Retrieved from <https://virtual-assets.org/uk#whatWeDo>.

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