

Russia Introduces Cryptocurrency Law

On July 31, 2020, the Russian President signed into law a federal statute introducing digital assets within the legal framework for the first time. The law is set to provide basic legal definitions and lay down fundamental rules, which will come into effect as of January 1, 2021.

This information note is prepared by Roman Buzko, partner at [Buzko Legal](#), where he leads FinTech and blockchain matters. Feel free to cite the note, but please mention the author and the firm. If you have any questions, please reach out at roman.buzko@buzko.legal.

The full name of the statute is Federal Law No. 259-FZ “On Digital Financial Assets, Digital Currency and Amendments into Certain Statutes of the Russian Federation” dated July 31, 2020 (the “**Crypto Law**”). The law runs for 108 pages and can be accessed [here](#) (in Russian only).

In short, the Crypto Law differentiates between digital financial assets (more commonly known as “digital securities”) and digital currencies (traditional cryptocurrencies, such as BTC and ETH). The issuance, record-keeping, promotion, and exchange of digital financial assets (“**DFAs**”) is regulated in a very detailed manner. In respect of digital currencies, the Crypto Law bans the acceptance of cryptocurrency as consideration (legal tender) by Russian entities and Russian tax residents.

Let’s look at the main principles of the new legal framework for cryptocurrency in Russia. We first define the main terms and then consider digital currencies and DFAs individually.

Main Definitions

Digital Financial Assets – digital rights, including (i) monetary claims, (ii) possibility to exercise rights under securities, (iii) participation rights in the capital of non-public joint-stock companies, (iv) right to demand the transfer of securities that are stipulated by the decision to issue the DFA, in a manner set forth in the Crypto Law, the issuance, record-keeping and exchange of which is possible by making (amending) entries in the information system based on a distributed ledger and other information systems.

Digital Currency – a set of electronic data (digital code or designation) contained in the information system that are offered and (or) may be accepted as (i) a means of payment, which are not the official unit of currency of the Russian Federation, or a unit of currency of a foreign country, and (or) an international unit of account or currency, and (or) (ii) as investment, and in respect of which there is no person responsible towards the owners of such electronic data, except for operations and (or) information systems nodes that are only responsible to ensure the consistency of the issuance of such electronic data and making (amending) entries in such information subject to the rules thereof.

Distributed Ledger – a set of databases, in which the consistency of the information contained therein is ensured algorithmically.

Information System Node – a user of the distributed ledger information system that ensures the consistency of the information contained in the said information system with the use of procedures confirming the validity of entries made therein.

Regulation of Digital Currencies

Out of 27 articles within the Crypto Law, there is only one that deals directly with the cryptocurrencies (or “digital currencies”, in the parlance of the statute). In short, the following rules will now apply to cryptocurrencies in Russia starting 2021:

- Cryptocurrency is deemed property;
- The issuance and exchange of digital currencies in Russia will be regulated separately (no specific date announced yet);
- The digital currency is deemed issued or exchanged *in Russia* if the process involves the use of the Russian “information infrastructure objects”, including Russian domain names and network addresses or technical infrastructure located in Russia;
- Russian legal entities and individuals that are Russian tax residents may not accept cryptocurrency by way of consideration for goods or services. This also applies to branches, representative offices and stand-alone divisions of foreign entities, which may be deemed to emerge in case of active marketing presence in Russia;
- It is also prohibited to *promote* in Russia the information on the offer and (or) acceptance of digital currency as consideration for goods or services;
- Any legal claims relating to digital currencies are subject to judicial protection only in case the possession and transactions with such digital currencies have been reported to tax authorities (the exact procedure is yet to be defined).

As evident, the Crypto Law acknowledges the existence of crypto currencies, but bans its use as consideration (legal tender) in Russia. However, the issuance and trading are allowed within the framework that is yet to be developed.

Regulation of Digital Financial Assets

In contrast to digital currencies, the Crypto Law provides much more details on the regulation of DFAs. The defining feature of DFAs is that there must always be an issuing entity responsible towards the purchasers or holders of such DFAs. Accordingly, the Crypto Law regulates in detail the offering, issue, promotion, and exchange of DFAs and introduces two special types of entities: (i) issuing platforms, and (ii) exchanges.

Rights under DFAs

Under the definition set out above, the DFAs are digital rights that include:

- (1) Monetary claims;
- (2) Possibility to exercise rights under securities;
- (3) Participation rights in the capital of non-public joint-stock companies (“**NJSC**”);
- (4) Right to demand the transfer of securities that are stipulated by the decision to issue the DFA.

Interestingly, DFAs do not necessarily have to be issued or exchanged by means of distributed ledgers.

Issuance of DFAs

The rights attached to specific DFAs must be defined in an “issuance resolution.” Article 3 of the Crypto Law provides a detailed list of what must be included in the issuance resolution. The issuance resolution must be made in electronic form and signed with the use of enhanced qualified electronic signature.

It is important to note that DFAs, which include rights related to securities, such as items (1)-(3) above, may not be offered to the general public and can only be placed via a private offering among the persons known in advance. Furthermore, the Central Bank of Russia (“**CBR**”) may decide that certain types of DFAs are only eligible for purchase by qualified investors (similarly to accredited investors in the US).

Issuing Platforms for DFAs

The issuance of DFAs must be carried out through special information systems (“**Issuing Platforms**”). An operator of the Issuing Platform must be a Russian legal entity included in the register maintained by the CBR. Article 5 - 9 of the Crypto Law provides for a comprehensive legal framework applicable to the operators of the Issuing Platforms, including liability, record-keeping, anti-money laundering, requirements to the management bodies and other rules.

Given the scope of the requirements, it is likely that only professional participants of the securities market in Russia will consider becoming Issuing Platforms. Importantly, however, unlike exchange platforms for DFAs, Issuing Platforms are not subject to any specific capital requirements.

Exchange Platforms for DFAs

Any transactions, including sale and purchase or exchange, with DFAs and other digital rights must be carried out through an exchange operator (“**Exchange Platform**”) that arranges such transactions by matching corresponding orders or by taking positions itself on behalf of other parties.

Operators of the Exchange Platforms must be included in the register maintained by the CBR. Among numerous requirements generally applicable to financial entities in Russia, Exchange Platforms are subject to specific capital requirements. Namely, they must have at least RUB 50 ml (approx. USD 670,000) in charter capital and net assets.

The Exchange Platform must develop the rules detailing the transactions flow, cybersecurity requirements, and certain other aspects. Such rules must be submitted for approval with the CBR. One platform may be both an Issuing Platform and an Exchange Platform.

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