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FINANCIAL REGIME

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What is the Colombian financial and securities' system scheme?

The Colombian financial system is based on a specialized banking scheme, i.e. a scheme in which every activity from the financial sector and from the securities market can only be performed by an entity especially appointed to carry out the corresponding activity, so that the same entity cannot provide all the possible financial sector and securities market financial services.

The country's financial system traditionally divides into the intermediated and the disintermediated sectors.

What is the intermediated sector?

It involves the activities that are carried out by bank entities, insurance companies, and supplementary or related service companies, comprised of:

- Entities collecting public resources with deposit or savings products, which are subsequently loaned to their clients.
- Financial companies that, despite obtaining public savings resources, due to the nature of their activities are considered entities providing services that are supplementary or related to their financial activity.
- Entities specializing in deposits and electronic payments.
- Insurance companies, capitalization companies, and the insurance and reinsurance intermediaries.
- Special financial entities.

What is the disintermediated sector?

Commonly known as the securities market, this is the sector that brings together all entities and activities in which no professional intermediation exists among the economy's surplus and deficit sectors, so that the former and the latter are directly supported by the entities that provide the infrastructure and the associated services in order to make direct negotiations.

As opposed to the intermediated sector, the securities market is defined by the activities rather than the agents participating in it. These activities include the following:

- Securities offering and issuance
- Securities intermediation
- Investment fund management
- Securities deposit and management
- Administration of negotiation systems or registration of operations related to securities, futures, options, and other derivatives
- Securities offsetting and liquidation
- Risk ratings
- Self-regulation
- Supply of information to the securities market

What are the main financial sector products and how are they obtained?

Credit entities

- **Savings and deposits:** The main products are savings accounts, checking accounts, term deposit certificates, term savings deposit certificates, and electronic deposits.

- **Loans:** While the bank entities and the financing companies can only use resources received from the public in order to loan to the economy's real sector, financial corporations may also invest such resources in the economy's real sector.

Financial service entities

Entities providing asset management services under mercantile trusts or trust accounts. In the former, the assets' ownership is transferred to an independent trust for their management, while in the latter only the possession is transferred, with the client continuing to be the owner.

- **General warehouses:** They provide merchandise storage services, issue pledge bonds, and provide customs intermediation. They may also offer loans to cover the expenses related to such services.

- **Pension and severance management companies:** They manage the country's pension savings and severance resources, the latter being some sort of unemplyment insurance. Their investment services are classified depending on the risk the saver wishes to assume, which may be either low, moderate, or high.

- **Exchange and financial service intermediation companies:** They provide services related to foreign currency operations in the country.

- **Insurance companies and insurance intermediaries:** Entities authorized to offer insurance coverage in the country.

Which are the main security market products and services and how are they obtained?

Investments in the securities market made through a stockbroker can be made under:

- Commission agreements (orders are provided by the investor directly)
- Third party portfolio management (investments are made by the commission agent according to instructions provided by the client)
- Securities management.

Bank accounts and requirements for opening them

- **Checking account:** Allows the client to deposit cash amounts and checks to a bank's checking account and partially or fully manage their balances by drawing checks or in other ways. No minimum interests are accrued.

- **Savings account:** No checks can be received or drawn; minimum interests are accrued**.**

- **Electronic deposits:** These instruments can be offered by loan entities and specialized deposit and electronic payment entities. They allow managing and keeping balances electronically and provide for a registration mechanism simpler than that of checking or savings accounts.

- **Opening of accounts in Colombian pesos for non-residents:** Non-residents may receive on-demand deposits, in checking accounts, in savings accounts, electronic deposits, and term deposits, in Colombian legal tender, without having to report them to the Central Bank.

  These accounts may have a general or exclusive use:

- General use accounts: Accounts opened for any purpose, except for loans in legal currency or for exchange operations that have to be channeled, with some exceptions such as imports, exports, and capital investments.

- Exclusive use accounts: Checking and savings accounts that can only be used for one of the following activities:
  - Direct foreign investment operations
  - Omnibus accounts allowing to make foreign capital portfolio investments (i.e., in the securities market)
  - Centralized foreign security deposit accounts
  - Accounts for external loan operations in legal currency

- **Opening of foreign currency accounts for residents:** Persons living in Colombia and Colombian residents may open accounts in foreign currencies. Resources deposited in such accounts cannot be used for exchange operations that have to be channeled through the exchange market.

Is the crowdfunding mechanism regulated?

Decree 1357 of 2018 from the Ministry of Finances and Public Credit regulates crowdfunding, which allows the owners of small-scale productive projects (the beneficiaries) to access funds either through capital or debt and also allows the qualified and non-qualified investors (the contributors) to participate in such financing.

Investments in such cooperation projects should be made with specialized platforms managed by the authorized collaborative financing entities, under the surveillance of the Colombian Superintendency of Finance and responsible for informing the public of the characteristics of projects being financed.

Limits to investments and crowdfunding-issued securities

- **Non-qualified investors cannot invest more than 20% of their annual revenues or their assets.**
- **Per-project investments will not exceed 10,000 minimum legal monthly current salaries (approximately USD $2,601,833) should qualified investors participate in the project, and 3,000 salaries (approximately USD $780,560) per project, should nonqualified investors participate in it.**

The regulation of this mechanism is progressive since:

- It allows the beneficiaries to offer on a large-scale their securities without prior authorization from the Colombian Superintendency of Finance pertaining to public security offerings.
- It allows concentrating the investors and the issuers' payments without the platform administrator having any legal risk of its activity being considered illegal, large-scale, and customary fund raising.

In Colombia cryptocurrencies are regulated?

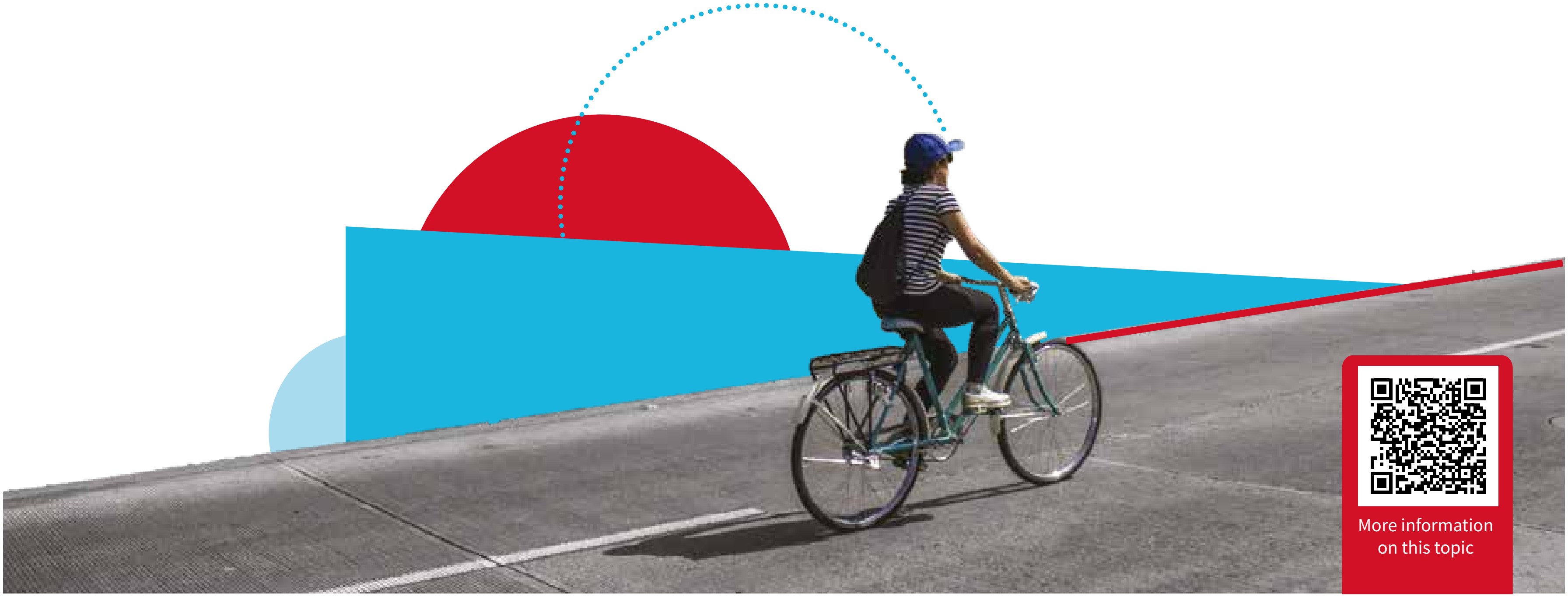
In Colombia, acquiring and selling crypto assets is not prohibited, unless the buyer or the seller is subject to restrictions related to their investment regime according to the authorities' orders or regulations. Additionally, certain regulations have to be strictly met, such as those prohibiting the unauthorized collection of public resources or those related to the asset laundering or financing of terrorism prevention.

Despite no integral regulation having been issued in Colombia regarding crypto assets, some entities have made efforts to clarify their nature. The Central Bank has emphasized the fact that crypto assets are not legal tender, not foreign currency, not authorized as a means to perform exchange operations considered in the exchange regulation, and cannot be sold or issued by the exchange market intermediaries, such as the commercial banks. On the other hand, the Colombian Superintendency of Finance, the authority supervising the financial system, has stated that crypto assets are not securities, in the capital market's technical sense.

Additionally, the entities, subject to the above Superintendence surveillance, are not authorized to keep in their custody, invest, intermediate, or operate with them, as well as not being able to lend their infrastructure for activities involving such types of assets. Finally, it warns the public in general of the risks these types of assets have and stresses the fact that it does not support them institutionally, as well as the absence of a legal regulation and of any official coverage.

From the tax point of view, the Colombian Tax and Customs Administration (DIAN), the entity responsible for overseeing and controlling proper compliance with the tax and customs obligations, has concluded that "virtual currencies are part of the persons' assets and may result in revenues being received".

It is then clear that no authority has reached an agreement regarding an integral regulation of the crypto assets issue or their aspects, either inside or outside the financial market. It is evident that the lack of a general framework does not facilitate a clear understanding of crypto asset activities.



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