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ARBITRATION'S ROLE IN NAVIGATING CRYPTOCURRENCY DISPUTES AMIDST VIETNAM'S LEGAL AMBIGUITY



OVERVIEW

The rapid growth of cryptocurrency and blockchain technology has significantly transformed several industries, such as finance, supply chain management, and healthcare. However, this expansion has also led to increased disputes related to crypto assets. These disputes can stem from various issues, including algorithm errors on trading platforms, misrepresentation of crypto assets, and poor performance by market makers. Traditional legal frameworks often struggle to address these disputes due to blockchain transactions' decentralized and global nature. As a result, arbitration has become a popular method for resolving crypto disputes, offering flexibility, confidentiality, and specialized expertise. This report delves into the role of arbitration in cryptocurrency disputes, the enforcement challenges, and potential future developments in this area, specifically focusing on the regulatory landscape in Vietnam.

DISTINCTIVE ATTRIBUTES OF CRYPTOCURRENCY DISPUTES

The realm of cryptocurrency disputes encompasses a wide array of issues arising from blockchain transactions' decentralized and pseudonymous nature. Unlike traditional financial transactions, cryptocurrencies operate on a peer-to-peer basis, facilitated by blockchain technology that prioritizes transparency and immutability. However, this decentralization poses regulatory oversight, legal recognition, and rights enforcement challenges.

The volatility of crypto assets introduces another layer of complexity. Disputes may arise from market fluctuations, breaches of intelligent contracts, misrepresentation of asset values, or technical malfunctions within trading platforms. These disputes often entail intricate technological details and require a nuanced understanding of blockchain mechanisms and cryptographic principles.

RESOLVING CRYPTO DISPUTES IN VIETNAM: AN ANALYSIS OF THE CHALLENGES

Resolving cryptocurrency-related disputes in Vietnam is fraught with several challenges.



a. Vietnam's Ambiguous Crypto Rules Lead To Legal Challenges

In Vietnam, there exists a certain level of ambiguity regarding the legal status of cryptocurrencies. While cryptocurrencies are not explicitly prohibited, they are not officially recognized as legal tender or assets. The current framework does not categorize cryptocurrencies as a legitimate form of payment or currency and is not considered as an asset or foreign currency. Notably, Decree No. 52/2024/NĐ-CP prohibits the issuing, providing, and using cryptocurrencies as a means of payment. Violations can lead to administrative fines ranging from VND 50,000,000 to VND 100,000,000, and in some cases, individuals may face criminal charges under Article 206.1(h) of the Penal Code. However, it is worth noting that there are no explicit legal provisions prohibiting cryptocurrency as an intermediary for exchange — for example, using money to purchase cryptocurrency and then selling the cryptocurrency to obtain money. As a result, dealing with disputes involving cryptocurrencies in Vietnam presents several challenges. For instance, in Case No. 22/2017/HC-ST dated 21 September 2017, a tax authority in Vietnam issued a tax collection decision demanding income tax on profits generated from Bitcoin trading. The plaintiff contested this, arguing that Bitcoin is not a taxable good or service under Vietnamese law, and subsequently filed a lawsuit. The court ultimately ruled that Bitcoin neither qualifies as a legal means of payment nor a commodity or service, thereby declaring the tax collection decision invalid. This case exemplifies the complexities and uncertainties encountered by various parties, including state authorities, in handling disputes and conducting cryptocurrency transactions.

b. Blockchain's Decentralization Complicates Jurisdiction and Regulation

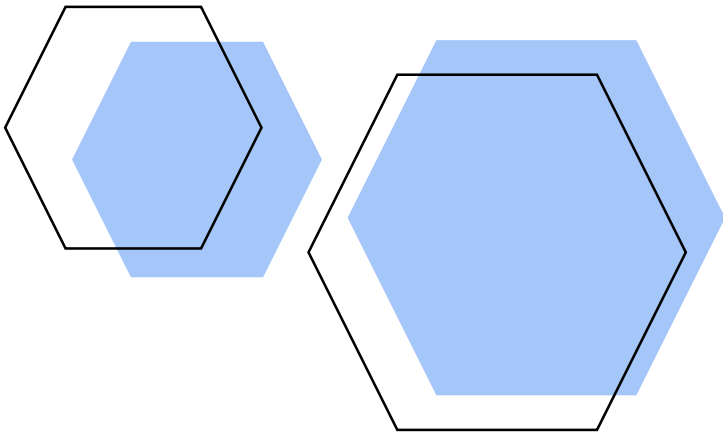
The decentralized nature of blockchain transactions presents challenges regarding jurisdictional issues and regulatory compliance. Disputes involving parties from multiple jurisdictions may encounter difficulties due to the different legal frameworks regarding cryptocurrencies in each jurisdiction. The absence of comprehensive cryptocurrency regulation in Vietnam contributes to legal uncertainty, leading to complexities in resolving disputes.

c. Blockchain Anonymity Complicates Dispute Resolution

The anonymous nature of blockchain transactions raises challenges in identifying the parties involved in disputes. While transactions are recorded on the blockchain, tracing them to specific individuals or entities requires specialized forensic analysis, which can present challenges in enforcing legal remedies.

d. Blockchain Outpaces Legal Frameworks, Creating Uncertainty

The swift advancement of blockchain technology surpasses traditional legal frameworks, which sometimes face challenges in keeping pace with the intricacies of crypto disputes. Well-established guidelines and precedents in crypto law are still developing, leading to uncertainty and differing interpretations across jurisdictions.





THE CRUCIAL IMPORTANCE OF ARBITRATION

Arbitration has become increasingly favored for resolving crypto disputes due to its adaptability, specialized knowledge, and confidentiality. In contrast to traditional courts, arbitration grants parties the ability to select arbitrators with expertise in blockchain technology and pertinent legal principles. This expertise is pivotal in addressing the intricate technicalities of intelligent contracts, cryptographic evidence, and the distinctive challenges posed by decentralized transactions.

Furthermore, arbitration offers confidentiality, which is particularly beneficial in safeguarding parties' privacy in pseudonymous transactions. Arbitral awards also generally entail easier cross-border enforcement in comparison to court judgments, fostering certainty and predictability within a legal landscape that is constantly evolving.

Nevertheless, enforcing arbitral awards in the crypto space presents notable jurisdictional challenges. Certain jurisdictions may decline to enforce arbitral awards related to cryptocurrencies if they contradict local public policies or are prohibited in those regions. For instance, courts may deem such awards unenforceable in countries where cryptocurrency transactions are banned or heavily restricted because they contravene public policy or legal norms. This lack of consistency in regulatory approaches gives rise to a fragmented legal landscape in which the enforceability of an arbitral award is contingent upon the local legal framework and its position on digital assets.

CONCLUSION

The distinct legal context in Vietnam emphasizes the essential role of arbitration in addressing disputes related to cryptocurrencies. The absence of well-defined regulatory structures and legal acknowledgment for cryptocurrencies adds complexity to traditional legal avenues, making arbitration a viable alternative. Arbitration provides the adaptability, confidentiality, and specialized knowledge required to navigate the intricacies of blockchain technology. As Vietnam's regulatory framework develops, integrating arbitration into resolving cryptocurrency disputes will promote confidence, uphold equity, and facilitate the sustainable advancement of the cryptocurrency industry.

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