DAOs in the Brazilian market, good compliance practices and AML

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The definition of Decentralized Autonomous Organizations (DAOs), as displayed on the website of the Ethereum network, affirms that DAOs are communities of members without centralized leadership, being considered "a secure way to collaborate with unknowns on the Internet, as, for instance, a safe place to allocate funds for a specific cause", without requiring intermediaries.

Complementarily, another crucial point is that DAOs are composed of smart contracts stored on a blockchain, digitalizing the terms of the fundamental agreements of DAOs into computer codes that are automatically executed when the terms of the contracts are fulfilled. It is precisely from the smart contracts that emerges the advantage of executions regardless of human action or intermediaries.

In theory, these arrangements and decisions are managed by proposals and polls guaranteeing that all members of the organization are granted with voice, without a vertical hierarchy or administration that can authorize spending according to their own interests or that can manipulate data and information to be advanced to partners.

In addition, token-based membership DAOs may receive investments from individuals across the world, which are subject to numerous jurisdictions and usually unknown at first glance (pseudonymized), unidentified both to the DAO and to the other members. In this scenario, compliance with anti-money laundering (AML) and know your client (KYC) policies turns much more complicated.

In this context, there are still questions on how it would be possible to develop a DAO in compliance with money laundering rules that remains with its search for worldwide members equally participating in polls.

In line with a greater control, there are already some DAOs in the United States that stipulated rules for investment/membership (only investors residing in the American market can participate in the organization), for the possibility of appointing subjects for voting and changing the codes of smart contracts, as well as for the polls themselves.

From the member's point of view, it is essential that, before joining any project, the documents of the organization, its possible prospects or publicity material are analyzed, as well as materials eventually produced during an audit of the smart contracts' code, whose objective is to verify that any vulnerability or point of attention has been solved.

From the DAO's point of view, in turn, in order to mitigate AML risks, the organizations could incorporate in the computer code itself, which governs their smart contracts, some aspects and criteria widely accepted for money laundering prevention to be observed by the members.

Alternatively, the organizations may establish a restriction on membership (only accepting those from certain countries due to regulatory issues of DAOs, or only accepting those with wallets under the custody of exchanges due to AML rules). Additionally, as a last alternative, the organizations may distinguish the members with voting powers, as well as define rules for voting delegation, a careful method already present in some DAOs from the United States.

These are concerns of DAOs during their constitution and the maintenance of their activities, which will still be subject to much discussion and, probably, litigation, taking into account the possibility of having voting members from anywhere in the world and without any intermediaries to clear rules on money laundering, such as brokerage firms, which invest the resources received from investors using bank transfers, checked by financial institutions, in companies with open capital on the major stock exchanges of the world, all these intermediaries being subject to specific regulation.

Ultimately, the use of a solid and consolidated cryptocurrency exchange, which adopts clear policies on know your client (KYC) and/or know your transaction (KYT), stands for an important providence for identifying fraudsters and blocking both irregular activities and funds of the DAO. Despite being considered a measure restricting privacy and pseudo-anonymity, this alternative is taken as a mitigation of the liability of the members themselves regarding irregular operations that may be subject to scrutiny.

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