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# DIGITAL TOKEN IN THE BUSINESS FUNCTION OF COOPERATIVES

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## ABSTRACT

Cooperatives represent relevant and significant economic subjects of associations that promote the interests of their members and work affirmatively to improve their position. Since the digital economy is developing expansively, and new forms of digital technology are changing economic and other interactions every day, cooperatives must keep up with such processes. The authors of the paper analyze the legislative framework for issuing digital tokens in the Republic of Serbia, especially from the aspect of the legal subjectivity of the issuer of this form of digital property. The purpose of the research is to indicate the legislative framework and economic possibilities of issuing digital tokens by cooperatives in the Republic of Serbia. The methodological approach is based on the theoretical analysis of nationally relevant regulations that enable cooperatives to be issuers of digital tokens, while the empirical research shows and analyzes the current practice of issuing digital tokens.

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## Introduction

Contemporary society is characterized by the dynamic and frequent use of various forms of digital technology in everyday interactions. Today's society is the society of the digital age, based on the intensive, daily and varied scope of using different forms of digital technology. A digital society is a society that accepts and uses digital technology on the basis of its social interactions. The scope and character of the implementation of digital technology directly

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depends on the degree of economic development of the specific society, and on the basis of the emergence and development of the digital society, significant changes have occurred in the domain of the economy. The digital economy is developing, as an economy based on the implementation of various forms of digital technology, especially information and communication technologies (ICT). The digital economy represents a segment of the digital society, making current and future development dynamically progressive depending on the scope of application of digital and technological solutions in the daily operations of business entities (Dukić Mijatović, Mirković, 2022). As a result, global economic trends are moving in the direction of more expansive use of new forms of digital technology in all aspects of business operations of economic entities.

The guarantee of development, but also of survival on the market, today is predominantly found in a high degree of inclusion of digital technology in the business of an economic entity, unrelated to its business activity. One form of digital technology that greatly changes the way certain business activities are performed, and generally influences and changes the foundations of the understanding of business and economic activity, is digital assets. The legal system of the Republic of Serbia is one of the first national legal systems that regulates the matter of digital property at the legal level. Digital property, in the conceptual framework out of which a special place belongs to digital or virtual currencies and digital tokens, represents a new economic reality that is available to subjects of economic association to use in accordance with their legal status, activities and goals of existence. Economic association, especially its role and importance in the economic system of a society, is an interesting and important issue. Cooperatives and cooperative associations represent economic communities of interest of their members who promote cooperative values and achieve the goals and tasks which they were founded for. Cooperatives represent autonomous associations of persons voluntarily associated with the goal of meeting common economic, social and cultural needs and aspirations, through a jointly owned and democratically controlled enterprise. Of particular importance for its smooth functioning is the availability of capital that will serve the purpose of the operation of the cooperative and its members.

The basic goal of the defined research is based on the premise that digital tokens, as a form of digital property, can be used to attract capital as a significant segment of cooperative operations. Functional research tasks are based on defining the legislative possibility of issuing digital tokens in accordance with the provisions of the Law on Digital Assets and the Law on Cooperatives. There are valid assumptions that by issuing digital tokens, cooperatives could find new sources

of capital that will be functionally used for the realization of the activities of the cooperative and its members. The verification of the given possibility is empirically verified in relation to relevant data on the volume and nature of issued digital tokens in the Republic of Serbia by legal entities.

### **Research methods**

The methodological approach to research is determined in accordance with the previously defined research goal and consists of a theoretical and empirical segment.

The theoretical part of the research includes a normative analysis of the provisions of the Law on Digital Property and the Law on Cooperatives. First of all, the authors, through a normative analysis of the provisions of the Law on Digital Assets, determine the relevant legal regime of the digital token issuance procedure, with special reference to the legal subjectivity of persons who can be found in the role of digital token issuers. Then, through a normative analysis of the provisions of the Law on Cooperatives, this regulation is screened in the domain of how the legislator defines the legal status of cooperatives, considering their specific legal position in the national legal framework, as well as whether it enables cooperatives to be digital token issuers in accordance with the provisions of the Digital Property Act. The goal of the theoretical part of the research is to determine the legal status of cooperatives according to the provisions of the Law on Cooperatives and whether such legal status allows cooperatives to appear as digital token issuers according to the provisions of the Law on Digital Assets.

The empirical part of the research includes the analysis of relevant and available data on the issuance of digital tokens in the Republic of Serbia by legal entities. The analysis aims to identify the issues of digital tokens issued so far (with or without white paper), with the presentation of relevant data of the realized issues in the context of the total monetary value of the issue, the character or purpose of the funds collected in this way, as well as the legal status of the token issuer. The empirical part of the research includes the collection and analysis of data on issued tokens that have been approved by the Securities Commission, as well as those token issues that do not require the commission's consent in accordance with the special conditions stipulated by the Digital Assets Act.

### **Results**

The normative analysis of the provisions of the Law on Digital Assets established that the legal status of the digital token issuer is clearly specified. The legal system of the Republic of Serbia legislatively innovated a new concept of the legal understanding of property, by introducing digital property as a special

form of property. As a consequence of the development and implementation of ICT, an informal conceptual solution of a property nature - the digital property became the subject of legislative regulation at the level of a special law. In order to provide relevant entities with a certain degree of legal security and certainty, global legislative trends have profiled a new direction in the development of the form of a new institute - digital property. By adopting the Law on Digital Assets, the Republic of Serbia systematically and legislatively innovatively regulated issues in the domain of issuing digital assets, its secondary trading, provision of services related to digital assets, lien and fiduciary rights on digital assets, as well as the issue of jurisdiction over these institutes of a property nature by the Securities Commission, i.e. the National Bank of Serbia. According to the normative analysis of Article 2, Point 1 of the Law on Digital Assets, it is prescribed that “digital asset, i.e. virtual asset, means a digital record of value that can be digitally bought, sold, exchanged or transferred and that can be used as a means of exchange or for the purpose of investments, whereby digital assets do not include digital records of currencies that are legal tender and other financial assets that are regulated by other laws, except when otherwise regulated by this law”. An interesting question of the defined research is the way in which the legislator determined the concept of a digital token and the legal status of the issuer of the token. When it comes to the standardization of the concept of a digital token, it is important to note that the legislator legislatively determined only two forms of digital property - virtual currency and digital token. This does not imply the impossibility of creating other forms of digital property, in accordance with the law, but only these two forms were identified as particularly important and sufficiently legally specific at the time of the adoption of this law to legally define their term. It was established that a digital token is “a form of digital property and as such means any intangible property right that represents one or more other property rights in digital form, which may include the right of the user of the digital token to be provided with a certain service”, which is especially important in the context of the possible purpose of issuing a digital token by cooperatives for the purpose of being able to use its services in order to attract an alternative source of capital that does not come from cooperative members.

The normative analysis of the provisions of the Law on Digital Assets concluded that legal entities, companies and natural persons can be found in the role of issuers of digital assets. The legal status of the issuer of digital assets is a significant issue from the aspect of the subject of research, and accordingly, the conducted research determined that in accordance with Article 2, point 13 of the Law on Digital Assets, the issuer of digital assets can be a domestic or foreign natural person, an entrepreneur or a legal entity.

The normative analysis of the provisions of the Law on Cooperatives established that the legal position of cooperatives is clearly determined by legislation. A cooperative is a legal entity, and as such it represents a special form of organization of natural persons (cooperative members) who realize their economic, social, cultural and other interests by operating on cooperative principles and who manage and control the operations of the cooperative (Article 2. Law on Cooperatives). Further analysis of this law established that the legal status of cooperatives is additionally specified in Article 5 of the same regulation, which stipulates that “a cooperative acquires the status of a legal entity by entering into the register maintained by the authority responsible for the registration of business entities”, while it is clearly determined that “a cooperative cannot be organized as a commercial company in the sense of the law governing commercial companies or as another form of organization” (Article 5, paragraph 1 and 2, Law on Cooperatives). The authors of the paper determined that the legal subjectivity of the cooperative was clearly and precisely determined in accordance with the previous statements.

Based on the conducted theoretical research based on the application of the normative method of analysis of two regulations, the Law on Digital Assets and the Law on Cooperatives, the authors of the paper concluded that cooperatives as special legal entities can appear in the role of issuers of digital tokens without legislative restrictions in the analysed regulations.

The empirical part of the research included the analysis of relevant and available data on issues of digital tokens issued in the Republic of Serbia by legal entities. The procedure for issuing a digital token is precisely regulated by the provisions of the Law on Digital Assets. With the entry into force of this regulation, the procedure for issuing digital assets, including digital tokens, and legislative solutions has been implemented in practice. By analyzing the aforementioned law, the authors concluded that the entire process of issuing a digital token is clearly regulated by legislation. The central function of supervision over this procedure is entrusted to the Securities Commission, depending on the economic character of the value of the specific digital token issue. Based on the available data collected by the authors of the paper by looking at the website of the Securities Commission, one successfully implemented issue of a digital token with an approved white paper was recorded. The first digital token issue in the Republic of Serbia was approved by the Securities Commission to the legal entity Finspot (date of issue: May 26, 2022). The individual value of the first issue of the digital token - finspot factoring token (FIN) was determined by the issuer in the amount of RSD 1,000.00 per token. An individual buyer had

to buy at least 10 digital tokens. The total value of the initial offer was RSD 32,250,000.00. The issue was realized through the issuance of a white paper that enabled investors to view all relevant data (Republic of Serbia Securities Commission, n.d.). When it comes to the issue of this digital token, by analyzing the content of the white paper, the authors of the paper obtained relevant data about the nature and purpose of this issue. The issuer predicted that this digital token is “a security token that represents a quasi-financial instrument, which to the greatest extent resembles financial instruments, and the users of that digital token have the right to participate in the profit, that is, the interest that the company that issued the token will pay them” (RTS, 2022). It is therefore a digital token that has an asset value and has a certain degree of similarity with debt financial instruments.

The second recorded digital token issue was realized by the sports club, Basketball Club Partizan NIS. The authors of the paper concluded that the issuance of a digital token offers various possibilities regarding the purpose of token issuance, which gives the right to the token issuer to provide certain services, i.e. benefits, to the buyers of the given token. The issuer of the digital token has decided to provide a number of benefits and services of a non-property nature for its fans-customers. The research established that no white paper was issued or approved for the issuance of this token, but all relevant information was provided directly by the issuer itself. Since the provisions of the Law on Digital Assets provide for the possibility of issuing a digital token with or without white paper, the issuing procedure was carried out in accordance with the law. In this case, it was not necessary to seek the approval of the Commission for Securities, bearing in mind that the total value of the offer is legally limited in accordance with the provisions of Article 17, Paragraphs 3 and 4 of the Law on Digital Assets - the total value of digital assets that during a period of 12 months issued by one issuer is less than EUR 100,000 in dinar equivalent value. The value of one token is set by the issuer at RSD 120.00, while token buyers are classified into three categories of users, depending on the number of purchased tokens. The issuer of the token has decided to provide certain benefits and services to token buyers that arise from the domain of the sphere of interest of its business. In this case, token buyers are provided with a range of different benefits when buying tickets, the opportunity for their favourite player to record a short personalized video message, a meeting with their favourite player, a signed jersey of the first team and the like. Basically, the issuer of the digital token has opted for the non-property character of the token it issues, that is, for it to be of a specific service character for its customer. The issuer's premise is “that by selling these tokens, support for the club is expressed and various benefits are realized that are known

in advance”, while at the same time a new source of capital is generated that was previously not legally possible, i.e. regulated. In addition, the token issuer decided to issue a special type of non-fungible token - NFT, which represents a unique token that can be an image, video, gif, text and the like. It is a kind of certificate that digital work is unique, and it is related to the issuer of the token itself. By analyzing the available data, it was determined that the token purchase process itself was carried out directly through the official application of the issuer, the Partizan NIS Basketball Club.

### **Discussion**

By adopting the Law on Digital Property, the Republic of Serbia created an adequate legislative framework that addresses the issue of a new type of property that arose as a result of the development and use of digital technology. New Property Institute - Digital Assets provides a wide range of capital investment opportunities in the domain of digital currencies and digital tokens in a legally secure manner. Also, in this way, economic entities are enabled to use the possibilities of a new form of property in the market in order to attract capital. The digital technology of the distributed ledger (which is the literal translation of the name of this technology in English - distributed ledger technology - DLT) is undoubtedly one of the forms of modern technologies that can have a very wide field of application, and therefore it becomes the subject of study in various fields of science, but and more and more current and frequent discussions whose participants are business people, political leaders, regulatory agencies, legislators and the like (Mihajlović, 2021). The possibilities of application are very wide, especially from the aspect of raising capital. Nevertheless, digital property, as a special type of thing, is considered one of the biggest challenges of modern real law (Jovanić, 2021), and therefore by adopting the law, the legislative system of the Republic of Serbia provides a high degree of legal security and predictability, both for the issuer of digital property, as well as for their customers. At the moment, the European Union is nearing the end of the adoption process of the Regulation on crypto-assets, the aim of which is, among other things, the harmonization of the regulations of the member states in this area, especially bearing in mind that in most of the member states services related to crypto-assets are provided outside the regulatory framework. The solutions adopted by the Law on Digital Assets are mostly following the proposal of this Regulation, although there are certain deviations (Pejkić, 2021). The scope of application of digital assets in practice is shown to be unlimited, especially in legal systems that provide a clear legislative framework. Some lawyers even believe that the emergence and development of

this technology represent at the same time the beginning of a new phase of the technological revolution, equating its importance with the emergence and use of the Internet (Goforth, 2021). Based on the above, it is obvious that the application of digital technology in the domain of creating digital assets can be an economically qualitative resource. Generally speaking, the process of issuing digital assets, virtual currency and digital tokens resembles the process of an initial public offering (IPO), including the publication of a prospectus, even when it is not regulated by regulations. By analyzing the provisions of the Law on Digital Assets, it can be concluded that this model was applied. Also, the influence of the Proposal of the EU Regulation on crypto-currencies is noticeable, given the similarity of the rules between the two regulations (Pejkić, 2021). By issuing digital assets, especially digital tokens, the issuer offers potential customers a property right to income on the achieved business results, which basically makes them similar to financial instruments. Still, the purpose of issuing tokens can also be directed to the non-property domain, leaving the customer's rights or benefits of a service nature to which the issuer of the token is obliged, which was the initial premise of creating this research from the aspect of possible application in the business of cooperatives. In this context, within the scientific community, it is clearly indicated that every form of digital property was originally created in the form of a process of primary emission of digital property, followed by secondary trade. Each issuer of digital assets defines the purpose of the asset that is the subject of issuance, on the basis of which the method of use, exchange and evaluation is further determined (Trklja, 2021). The advantages of digital tokens, in contrast to digital currencies, are precisely the different economic properties of the issued tokens in the context of whether they represent a property or some other right that can be drawn on. The first group consists of exchange tokens, which is actually another name for cryptocurrencies. They are based on distributed ledger technology and are generally not supported by a recognized central authority, although this is not the case when it comes to legislative regulation of digital assets in the Republic of Serbia. In this sense, they represent decentralized instruments for buying and selling goods and services without traditional intermediaries. The second group, value tokens (security tokens), analogous to the above-mentioned investment tokens, imply the acquisition of certain rights and obligations and have the functions of ownership or debt financial instruments that can be transferred. This type of token was issued by the Finspot issuer in the Republic of Serbia. Utility tokens provide the right to current or future services or products, but not the powers that users of value tokens have (Jovanić, 2020). This type of token was issued by the Partizan NIS Basketball Club. In this form, a digital token is a

form of digital property that implies the existence of property rights in a special, digital form, which may include the right to certain services for the holder or token buyer (Trklja, 2021). In this way, the digital token issuer within its domain of business activities, which primarily refers to business entities, can provide token buyers with a specific range of services that are otherwise unavailable or difficult to access, while the motivating factor for the buyer is precisely based on the possibility of obtaining certain benefits, that is, a service that has a certain value for him and for which he is ready to pay. In this way, issuing a digital token can serve to attract new sources of capital, which is clearly empirically confirmed by the conducted research. As part of the empirical research, it was determined that according to the available data in the world at the time of writing this paper, there were over 10,000 individual forms of digital assets, which includes over thousands of tokens (<https://www.statista.com/statistics/863917/number-crypto-coins-tokens/>), which supports the fact that this form of digital property is increasingly becoming significant on the global world market, while the scope of application depends to a significant extent on the context and general regulatory policy of each individual country. The possibilities of using digital tokens are gaining importance, and in the future, we can expect an increase in the number and value of individual issues in the Republic of Serbia.

The initialization of the use of digital technology in the business of economic entities represents the beginning of the emergence of the digital economy. In such a process, economic entities must adapt to technological changes that significantly affect their operations and the realization of economic results. The possibility of issuing digital assets by legal entities represents a new type of capital attraction without legislative restrictions. Realizing that cooperatives represent specific economic subjects, the question of attracting new sources of capital is very significant, understanding global trends in this domain. Cooperatives represent an interest association of its members and are established in accordance with the Law on Cooperatives, based on cooperative principles. In their operations, cooperatives primarily play the role of affirming cooperative principles that serve the interests of their members - cooperative members. It is emphasized that cooperatives are traditionally the most significant form of association and business organization of natural and/or legal persons, i.e. cooperative members, with the aim of their economic, sociological, cultural and ecological sustainability (Mitrović, 2019). Through the affirmation of the cooperative principles, the cooperative realizes a wide range of activities in accordance with the spheres of interest of the cooperative members. Since they represent an interest association, the importance of cooperatives and cooperatives in the world and in our country is great. Namely, almost half of the world's population provides funds through

cooperatives. It is pointed out that there are three times more cooperative members than shareholders in the world (Mićović, 2017). The role of the state is to affirm the establishment of cooperatives through active legislative activity in this field. Previous cooperative legislation did not regulate the issue of the concept of a cooperative member but indirectly prescribed that the status of a cooperative member is acquired by the founders of the cooperative, i.e. natural persons by establishing a cooperative, as well as those natural persons who meet the conditions prescribed for the establishment of a certain type of cooperative (Knežević, 2021). In this context, the significant reform of cooperatives in the world took place in the domain of a clear legislative framework that regulates this area, most often through systemic laws. It is emphasized that modern cooperatives have undergone major changes so that cooperatives in developed countries are increasingly organized as capital companies. This trend creates problems for the economies of countries in transition, which means also for Serbian cooperatives because cooperatives in the Republic of Serbia are organized as private companies. In fact, a cooperative that has been recognized as a special business company is placed in an unequal position on the market compared to other non-cooperative companies (Mitrović, 2020). For the stated reason, cooperatives need to create new ways of attracting capital that will be a function of their business, which was identified by the author of the paper as a valid research question.

When it comes to capital, the basic capital of a cooperative consists of cooperative members' contributions, or membership fees - if cooperatives are founded without cooperative members' contributions. Namely, stakes do not have to be equal, and on the other hand, they can be monetary or non-monetary. A cooperative member can have only one stake in the cooperative and the cooperative's stake cannot be transferred by legal deed (Nikolić, Zakić, Tasić, 2018). Limitations in this domain have been validly investigated by the professional and scientific public, especially from the aspect of the legal position of cooperatives, which as such determines the way of performing their business activities. In particular, the fact that a cooperative is an exclusive legal form of association of cooperative members, which in our law is characterized by a high degree of personification and closed business, is an expression of its self-help function (Vitez, 2018). The negative context of the above is in the high degree of closure of cooperatives as economic entities towards third parties, which significantly hinders and limits cooperatives from attracting external capital beyond that which the cooperative members themselves invest. As a result, the economic position of cooperatives proves to be difficult to sustain, since it is generally based on capital investment by the cooperative members themselves, while profitability itself is very difficult to achieve due to a significant degree of closure to third parties. For this reason, efforts are being made today,

through adequate legislation, or state incentives, to transform the cooperative, which has long been viewed as a historically outdated form of production, into a competitive business entity. It is stated that cooperative business in today's conditions of economic survival should respond to the requirements of the modern economy through economic integration and consolidation of production, as well as the attraction of capital to cooperatives by third parties as a reproduction of external economic activity (Knežević, 2021). In the field of business organization, the necessity of functional changes in the business model is indicated. The previous way of organizing the work of cooperatives was primarily focused on the cooperatives, neglecting the interests of the cooperative itself as a separate economic entity. Thus, it is emphasized that the cooperative member, as a member of the cooperative, in whole or in part, operates through the cooperative using its services (Bataveljić, 2016). However, such a concept of functional business puts in the background the interests of the cooperative as a legal and economic entity. It is emphasized that, although cooperatives primarily serve the interests of the members themselves, the cooperative also has its own interests, which it realizes through its organs and instrumentalizes them through legal transactions concluded by the cooperative management in legal transactions with the cooperative members, but also with third parties (Vitez, M. 2018 ). New opportunities to attract capital are precisely identified in the interests of the cooperative itself as a legal entity and the need for this legal entity to be "economically distinct" and independent in a certain domain from the cooperative members themselves, which is done in dealings with third parties who do not necessarily have to be directly related by interest with the cooperative members themselves. It is validly asserted that every economic organization, including a cooperative, must make a profit in order to survive and develop. In other words, the cooperative must not operate at a loss, because its assets would decrease (Mitrović, 2017). In the context of attracting capital, cooperatives must operate more like classic economic entities. This includes diversified financing models that are not exclusively related to the founding roles of the members of the cooperative. In this context, the cooperative must commercialize its business, and offer its service functions and activities related to cooperatives on the market and to other economic entities, where issuing a digital token can be one of the ways to achieve this.

## Conclusion

Cooperatives as economic entities must observe the external environment and find ways to, in accordance with their legal position and cooperative principles, commercialize their cooperative activities and offer them to third parties as services or benefits that will serve to attract new business, and consequently

new sources of capital. Legislative standardization of digital property institutes enables economic entities a new way of collecting capital. This especially refers to the possibility of issuing a digital token, taking into account the previously defined phenomenological aspect of the possibility of its use. A cooperative as a legal entity can be the bearer or holder of rights to digital assets. Issuing a digital token can be a valid alternative, but also a new way for cooperatives as economic entities to get new sources of capital. The initial idea is that cooperatives, through the process of issuing a digital token, whether it is an issue for which a white paper has been approved or not, offer a range of different services from the domain of the cooperative's activities to third parties, generating new business and sources of capital outside of what the cooperatives bring in. The cooperative must no longer be viewed solely from the aspect of the interests of its members but go in the direction of externalizing its business with third parties, taking into account the interest of the cooperative itself as a separate economic entity. The global trend in the domain of the way cooperatives operate is towards "their greater commercialization" as economic entities, and less as associations that work exclusively in the interest of their members. By issuing a digital token, cooperatives can "commercialize" their activities, so that third parties can also use some of the benefits of cooperatives in an economically acceptable way. The research concluded that the current legislative framework allows cooperatives to be digital token issuers, promoting a new property institute in the function of cooperative operations.

### **Conflict of interests**

The authors declare no conflict of interests.

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