Comparison with Swiss prospectus and ledger-based securities law

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Switzerland and Singapore reach similar outcomes on the perimeter by different roads. Swiss law treats a token as a security (Effekte) under the Financial Market Infrastructure Act (FinMIA; FinfraG) if it is standardised and suitable for mass trading. The Financial Services Act then imposes the prospectus duty, with exemptions for offers to professional clients, to fewer than 500 persons or below CHF 8 million (see Part E, Chapter IV). Singapore has no equivalent of the Swiss ledger-based security under Art. 973d ff. CO (see Part D, Chapter III). A Singapore company cannot make the blockchain its share register, so a tokenised Singapore share is a record of a beneficial interest or an instruction to the registrar. Switzerland therefore offers the cleaner legal form for tokenised shares, while Singapore offers the deeper regulated infrastructure for tokenised funds and bonds through Project Guardian and its successors, discussed in Chapter VII.

For an issuer the choice between the two is usually driven by the investors. A Swiss AG with ledger-based shares can be sold to Swiss and European investors under a FinSA private placement and traded on a Swiss DLT trading facility. A Singapore

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VCC or a Singapore-domiciled tokenised fund can be sold to Asian accredited investors under s. 305 SFA and held through a Singapore-licensed custodian. Groups that want both markets commonly use a Swiss issuer and a Singapore distributor or a Singapore fund with a Swiss manager, structures that Part P, Chapter IV describes.

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